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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Judgment: 30th November, 2018*

+ MAT.APP.(F.C.) 310/2018

PRANAMIKA NAIR Appellant

Through: Appellant in person

versus

GIRISH KUMAR GANGADHARAN Respondent

Through: Mr. Prashant Mendiratta, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MS. JUSTICE JYOTI SINGH

G.S. SISTANI, J. (ORAL)

CM No. 49991/2018 (Delay in re-filing)

This is an application filed by the appellant seeking condonation of 26 days delay in re-filing the appeal.

Delay is condoned. The application stands allowed.

CM No. 49990/2018

Notice.

Mr. Mendiratta, learned counsel for the respondent accepts notice.

Although, we do not see sufficient ground to condone the delay, having regard to the fact that this is a family matter and pertains to custody of child, to meet the ends of justice, we condone the delay.

Application stands disposed of accordingly.

MAT.APP.(F.C.) 310/2018

The challenge in this appeal is to order dated 02.08.2018, whereby the rights of the appellant/ wife (respondent before the Family Court) to further cross-examine PW-1 was closed as the counsel had not appeared.

The order discloses that the Court was extremely unhappy with the conduct of the counsel and infact, the Court has even advised the respondent before the Family Court to move a transfer petition. The appellant who appears in person submits to the contrary. We feel that it is not necessary for us to make any observation on either the conduct of the counsel or as to what transpired in the Family Court on 02.08.2018.

Mr. Mendiratta submits that the appellant is not interested in pursuing the matter, which is evident from the fact that though two dates for cross-examination of PW1 were fixed, being 01.08.2018 and 02.08.2018, neither the appellant nor her counsel appeared on 01.08.2018 and even on 02.08.2018, the counsel was not present when the matter was called. Hence, the Family Court had no option but to close her right to cross-examine PW1. Appellant who appears in person submits that case was not shown in the cause list and at her request, the matter was listed.

The appellant submits that in case, one last opportunity is granted, she would complete the cross-examination of PW-1. Mr. Mendiratta has no objection. Accordingly, this appeal is disposed of with the following agreed directions:

- (i) Learned Family Court will fix one date in the month of December, 2018 to enable the appellant to complete the cross-

examination of PW1.

- (ii) The respondent will be permitted to produce his remaining evidence and the appellant would cross-examine the said witnesses, if any.
- (iii) Two weeks time will be granted to the appellant to file her evidence.
- (iv) The parties assure the Court that they would not delay the matter, would not seek unnecessary adjournments and would cooperate in the early disposal of the matter as directed by an earlier Bench hearing the appeal bearing MAT.APP.(F.C.) No. 142/2017, vide its order dated 20.11.2017.

The appeal is disposed of in the above terms. CM. No. 49989/2018 also stands disposed of.

G.S.SISTANI, J.

JYOTI SINGH, J.

NOVEMBER 30, 2018

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