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

+ CM(M) 1416/2017 & CM 45441/2017

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..... Petitioner

Through: Mr. G. Tushar Rao and Mr. Mayank
Sharma, Advocates

versus

B

..... Respondent

Through: Ms. Vrinda Grover, Mr. Zishaan
Iskandari, Ms. Ratna Appnender and
Mr. Soutik Banerjee, Advocates

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **23.05.2018**

1. The petitioner and respondent were married on 08th March, 2005. On 09th October, 2015, the parties filed the first motion for dissolution of marriage by mutual consent under Section 13B of the Hindu Marriage Act. On 08th June, 2016, the parties filed the second motion for dissolution of marriage under Section 13B. The learned Family Court recorded the statement of both the parties and dissolved the marriage by mutual consent on 09th June, 2016.

2. The petitioner has challenged the decree of divorce by mutual consent on the ground that the respondent has played fraud upon her as well as the Court particularly with respect to the custody of the minor son, Ishan aged about 6 years now. As per the terms and conditions of dissolution of marriage, the respondent has the permanent custody of the minor son and the petitioner has visitation rights of once/twice a month. The petitioner has approached this Court for setting aside of the decree of divorce by mutual

consent and for permanent custody of the minor child.

3. This Court is of the view that it would be appropriate for the petitioner to approach the learned Family Court which passed the decree and the learned Family Court shall examine whether the respondent has played fraud upon the Court or not.

4. This petition is, therefore, disposed of with the liberty to the petitioner to approach the Family Court and upon the petition being filed, the learned Family Court shall examine whether the respondent has played fraud upon it and shall pass appropriate orders in accordance with law. Needless to say that if the petitioner is aggrieved by the order of the Family Court, the petitioner would be at liberty to file appropriate legal remedies available to her in accordance to law.

5. Pending application is disposed of.

6. Copy of this order be given *dasti* to counsels for the parties under signatures of the Court Master.

J.R. MIDHA, J.

MAY 23, 2018

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