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

+ **MAT.APP.(F.C.) 3/2019 & CM APPL. 392/2019**

MOHAMMAD AMJAD THAKUR Appellant
Through: Mr.Pramod Kumar Ahuja, Advocate.

versuss

SONIA DHIR @ MS SARAH Respondent
Through:

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **08.01.2019**

CM APPL. 393/2019 (*exemption*)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CM APPL. 391/2019 (*delay*)

This is an application filed by appellant seeking condonation of delay of one year three months in challenging the order dated 01.08.2017 and one year two months and twenty six days challenging the order dated 10.08.2017.

The delay is condoned.

The application stands disposed of.

MAT.APP.(F.C.) 3/2019 & CM APPL. 392/2019

This is an appeal challenging the order dated 01.08.2017 by which the right to file written statement was closed.

Learned counsel for the appellant strongly urged before us that written statement was prepared but could not be filed. Thereafter, part cost was paid but since the balance cost was not paid, written statement was not taken on record.

We have examined the order dated 01.08.2017. The order dated 01.08.2017 shows that a petition seeking a decree of divorce was filed by the respondent/wife on 30.08.2016. Notice was issued for 06.10.2016 when the husband/appellant herein appeared; sought time to file the written statement and matter was adjourned to 17.01.2017. On 17.01.2017 again further time was sought to file the written statement and the case was adjourned to 28.01.2017. Thereafter, the matter was adjourned to 28.02.2017. On 28.02.2017 again time was sought to file the written statement which was allowed subject to payment of cost of Rs.5,000/- and the matter was fixed for 16.03.2017. On 16.03.2017, a detailed order was passed granting another opportunity to file written statement subject to further cost of Rs.5,000/- and the case was adjourned to 18.04.2017. On 18.04.2017, learned Principal Judge, Family Court was transferred and the case was listed on 01.08.2017. On this date, the appellant herein tendered only Rs.5,000/-cost as against Rs.10,000/- and in view thereof, the written statement was not taken on record. This order was challenged by filing CM (Main) No.1264/2018 in this court, which was disposed of, as withdrawn on 15.10.2018 as being not maintainable, granting liberty to the appellant to avail the appropriate remedy.

We are informed by learned counsel for the appellant that the matter is listed for final hearing before the Family Court and the appellant herein had cross-examined the respondent. Since much water has flown from the

time when the right to file written statement was closed and now, the matter is listed for final arguments, we find no ground to interfere with the order so passed, especially in view of the fact that repeated opportunities were granted to appellant to file written statement but he did not avail of the opportunity so granted.

Resultantly, we find no merit in the appeal and the same is dismissed.

G.S.SISTANI, J

JYOTI SINGH, J

JANUARY 08, 2019

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