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

+ **MAT.APP.(F.C.) 303/2019**

DEEPALI SHAH AGARWAL Appellant
Through: Ms. Mukta Trikha, Advocate

versus

MANISH AGARWAL Respondent
Through: None

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE ASHA MENON

% **ORDER**
25.11.2019

1. The appellant/wife is aggrieved by an order dated 14.10.2019, passed by the learned Principal Judge (East District), Family Court, Karkardooma, Delhi, whereunder a petition filed by her under Section 13 (1) (ia) (ib) of the Hindu Marriage Act, 1955 against the respondent/husband has been rejected on the ground that she has tried to artificially create territorial jurisdiction on this court by relying on a sham document, namely, a rent agreement purportedly executed on 15.07.2019, in Delhi. Noting that the marriage of the parties was not solemnized within the jurisdiction of the said court, nor was the respondent residing in Delhi and further that the parties had not lastly resided together within the jurisdiction of this Court, the Family Court declined to entertain the petition filed by the appellant/wife.

2. Learned counsel for the appellant seeks to refer to an Aadhaar card issued in the appellant's favour on her submitting an application in June, 2019 for change of address, which shows that her residence is within the jurisdiction of the Family Court. Learned counsel states that the Aadhaar card, photocopy whereof has been filed at Annexure-B, was not issued in the appellant's favour till recently and admittedly, at the time of filing the petition, there was no document in the possession of the appellant, besides the lease-deed, which the Family Court has declined to consider as a valid document in view of the lacunae therein. She states that now that an Aadhaar card has been issued in favour of the appellant, the matter may be remanded back to the Family Court for re-consideration.

3. Without making any observations on the merits of the present appeal, purely on the aspect of maintainability, keeping in mind the fact that the appellant has filed a copy of the Aadhaar card, which reflects that address is within the territorial jurisdiction of East Delhi, the impugned order dated 14.10.019 is quashed and set aside. The matter is remanded back to the Family Court for a fresh consideration. The appellant shall file a copy of the Aadhaar card and produce the original for the perusal of the Family Court on the date fixed. The appellant shall also file any other document in her power and possession to establish that she is a permanent resident of Delhi, for her to claim the benefit of Section 19 of the Hindu Marriage Act, 1955, which gives her an option to file a petition at a place where she is presently residing.

4. At the request of the learned counsel for the appellant, list on 22.01.2020, before the concerned Family Court.
5. The Registry is directed to forward a copy of this order directly to the concerned Family Court for information.

HIMA KOHLI, J

ASHA MENON, J

NOVEMBER 25, 2019

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