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

+ MAT.APP.(F.C.) 223/2018

BHAVNA RAJPUT

..... Appellant

Through Ms. Gita Dhingra, Advocate

versus

VIPIN

..... Respondent

Through Mr. Yudhvir Singh Chauhan and Mr. S.K. Sharma, Advocates

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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06.02.2019

Challenge in this appeal is to the order dated 24.07.2018 by which a decree of divorce has been passed by the Family Court in the absence of the appellant wife.

Ms. Dhingra, learned counsel for the appellant submits that the respondent appeared in person on 17.11.2017 but his counsel was not available and the matter was adjourned to 21.03.2018. On 21.03.2018, the respondent appeared with his counsel but unfortunately the appellant could not appear and she was under the impression that the matter is listed for 22.03.2018. On 22.03.2018, when the appellant could not find her matter in the cause list, the appellant enquired from the Reader and she learnt that the matter was adjourned to 10.07.2018. Counsel submits that the counsel who was appearing in the matter did not ascertain the order and it is only on 10.07.2018, did the appellant learn that, in fact the appellant had been proceeded *ex parte*. Counsel submits that the appellant should not suffer for the inaction on the part of her counsel.

She further submits that the appellant is not aware about court procedure and belongs to the weaker section of society. She prays that one opportunity may be granted to cross-examine the respondent and one opportunity may also be granted to the appellant to lead her evidence.

Mr. Chauhan, learned counsel for the respondent has reluctantly, but very fairly agreed to the suggestion made by the counsel for the appellant provided that the appellant does not delay the matter any further.

Accordingly, the impugned order dated 24.07.2018 is set aside. The parties will appear before the Family Court on 14.02.2019. The Family Court will fix the matter for cross-examination of the respondent. Thereafter, one opportunity would be granted to the appellant to file her evidence by way of affidavit.

As suggested, the matter is also referred to the Delhi High Court Mediation and Conciliation Centre. Parties to appear before the Mediator on 11.02.2019 at 3:00 P.M. Parties agree to co-operate with the Mediator.

The appeal stands disposed of in above terms.

CMs.APPL 36035/2018 and 36037/2018 also stand disposed of in view of the order passed in the appeal.

G.S.SISTANI, J

JYOTI SINGH, J

FEBRUARY 06, 2019

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MAT.APP.(F.C.) 223/2018