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

+ **MAT. APP. (F.C.) 265/2019**

PRATAP SINGH

..... Appellant

Through: Mr.Kushagra Pandey, Advocate

versus

RUPINDER KAUR

.... Respondent

Through: Mr. Pulkit Tyagi, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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14.07.2020

HEARD THROUGH VIDEO CONFERENCING

CM 14906/2020 (exemption)

Allowed, subject to all just exceptions.

CM 14905/2020 (by the appellant for permission to permit the parties to jointly file a petition for divorce by mutual consent)

1. The present application has been filed by the appellant asking for permission to the parties to jointly file a petition for divorce by mutual consent, in terms of the Settlement Agreement dated 28.02.2020.
2. The present appeal is directed against an ex-parte judgment dated 04.07.2018, passed by the learned Principal Judge, Family Court, Shahdara, Karkardooma, dismissing a petition filed by the appellant/petitioner under Section 13(1)(i)(a) of the Hindu Marriage Act, seeking dissolution of his marriage with the respondent.

3. On 15.10.2019, when the matter was listed for admission, after hearing learned counsel for the appellant, we had indicated to him that we were not inclined to interfere in the impugned judgment. At that stage, learned counsel for the appellant had stated on instructions that his client did not wish to press the appeal and instead the other side may be called upon to state if she would be willing to explore the possibility of a onetime settlement with the appellant.

4. In view of the aforesaid submission, the matter was adjourned to 28.11.2019, with a direction that the parties will remain present. On the next date, both the parties had expressed their readiness and willingness to arrive a comprehensive onetime settlement with each other. Accordingly, the parties were referred to mediation.

5. We are informed that the parties have arrived at a settlement before the Delhi High Court Mediation and Conciliation Centre, as recorded in the Settlement Agreement dated 28.02.2020 enclosed with the application. The terms and conditions of the settlement have been set out on page 2 of the Settlement Agreement wherein, both the parties have agreed to dissolve their marriage by mutual consent. Further the appellant has agreed to pay a sum of Rs. 13 lacs to the respondent towards a onetime settlement. It has been agreed that out of the sum of Rs.13 lacs, Rs.5 lacs will be paid by the appellant to the respondent at the stage of the First Motion Petition before the learned Family Court, a second sum of Rs.5 lacs shall be paid by the appellant to the respondent at the time of recording the statement of the parties before the Family Court on moving the Second Motion petition and the balance sum of Rs.3 lacs shall be given by the appellant in the form of an FDR, in the name of the minor son of the parties, in the care and custody of

the respondent, within six weeks of the date of grant of the decree of divorce by mutual consent, in the present proceedings.

6. Having regard to the fact we had declined to issue notice in the present appeal on merits and the scope of the appeal was limited to enabling the parties to arrive at a negotiated settlement, which they have in terms of the settlement agreement dated 28.02.2020, nothing further survives in this appeal.

7. We have enquired from learned counsel for the appellant as to why would the present appeal be kept pending. Mr.Pandey, learned counsel for the appellant and Mr.Tyagi, learned counsel for the respondent state in unison that the last instalment of Rs.3 lacs to be paid to the minor son of the parties in the shape of an FDR, may be directed to be handed over by the appellant directly to the respondent within six weeks from the date of grant of a decree of divorce by mutual consent. The conditions recorded in the Settlement Agreement are modified to the above extent.

8. In view of the fact that the parties have arrived at a comprehensive settlement as recorded by the Delhi High Court Mediation and Conciliation Centre on 28.02.2020, of their own free will and volition and without any undue coercion or influence and further noting that the Settlement Agreement has been signed by the parties, their respective counsel and the learned Mediator, the same is taken on record. The parties shall remain bound by the terms and conditions of the Settlement Agreement. Any default on the part of either side shall be viewed seriously and in the event of default, the aggrieved party shall be entitled to seek legal recourse against the defaulting party in accordance with law.

9. The present application is allowed and disposed of with liberty granted to the parties to approach the Family Court by filing a joint application for seeking divorce by mutual consent.

10. In view of the order passed above, nothing further survives in the appeal, which is also disposed of along with the pending applications.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

JULY 14, 2020

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