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

% *Date of Decision: 08th December, 2022*

+ C.R.P. 267/2018 & CM APPL. 52375-52376/2018

GAURI @ SUPRIYA

..... Petitioner

Through: Mr. Anuj Gupta, Mr. Naveen
Kumar and Ms. Shivani, Advocates.

versus

DAVESH KUMAR

..... Respondent

Through: Mr. P. K. Malik, Advocate.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. Present revision petition has been filed assailing the order dated 10.12.2015, passed by the learned Trial Court rejecting the application under Order VII Rule 11 CPC of the Petitioner, who was the Defendant before the Trial Court.
2. The prime argument raised by the Petitioner before the Trial Court in the application under Order VII Rule 11 CPC for rejection of the plaint was that the earlier divorce petition being HMA No.99/2010 was withdrawn unconditionally on 09.05.2011 and since there was no change in circumstances and no continuing cause or fresh cause of action had arisen in favour of the Petitioner, the second divorce petition could not have been filed, after withdrawing the previous one.
3. Trial Court has rejected the application by noting that there are specific subsequent events of cruelty that have been alleged by the Petitioner and that the application raises issues which are mixed questions of fact and law.

4. Learned counsel for the Petitioner submits that the present petition be disposed of, giving liberty to raise all grounds before the Trial Court.
5. Learned counsel appearing on behalf of the Respondent, however, submits that the matter has been finally heard by the Trial Court and is fixed for pronouncement of judgment on 09.12.2022 and Petitioner herein has already argued all the issues and grounds that were raised in application under Order VII Rule 11 CPC.
6. This Court finds no infirmity in the impugned order where the Trial Court has held that the issues raised in the application are mixed questions of law and fact. Be that as it may, there is no reason to interfere with the impugned order at this stage, keeping in view the stage of the suit where final arguments have been heard and judgment is to be pronounced on 09.12.2022 as also the fact that Petitioner has admittedly argued all points raised in the application under Order VII Rule 11 CPC.
7. Accordingly, the petition along with pending applications is disposed of as infructuous.
8. Needless to state, this Court has not expressed any opinion on the merits of the case.

JYOTI SINGH, J

DECEMBER 08, 2022/shivam