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

% *Decided on: 26th April, 2023*

+ CM (M) 671/2023 & CM APPLs. 20838/2023 & 20839/2023
RAJ KUMAR HINGORANI Petitioner

Through: Mr. Additya Kapoor with
Mr. Harsh Ahuja, Advocates.

versus

SHILPI SRIVASTAV HINGORANI Respondent

Through: Mr. Vineet Jhanji with
Mr. Imran Moulaey, Advocates.
(M): 9990091359

Email: imranmoulaey@gmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

*The present matter has been received on transfer from the Court of
Hon'ble Ms. Justice Rekha Palli.*

**CM APPL. 20839/2023 (Application under Section 151 CPC
seeking exemption from filing certified copies/true typed/legible
copies of the orders, documents, notices, applications etc)**

1. Allowed, subject to just exceptions.
2. Application is disposed of.

**CM (M) 671/2023 & CM APPL. 20838/2023 (Application under
Section 151 CPC seeking Ad-interim ex parte stay on the HMA
No. 171/2018 titled "Shilpi Srivastav Vs Raj Kumar Hingorani"
pending before the Ld. Judge, Family Courts, Patiala House
Courts, New Delhi during the pendency of the captioned petition)**

3. The present is a petition challenging the order dated 23.01.2023
passed by the learned Judge, Family Courts, Patiala House Courts,

New Delhi in HMA No. 171/2018, by which the opportunity of the petitioner-husband to lead evidence has been closed.

4. Learned counsel appearing for the petitioner husband submits that the petitioner is ready to settle the matter and that one opportunity may be granted in that regard.

5. On the other hand, learned counsel appearing on behalf of the respondent-wife submits that the matter has already been heard finally by the learned Family Court on 20.04.2023 and the matter has been reserved for judgment.

6. The respondent-wife has filed petition, HMA No. 171/2018 under Section 13(1) (1A) of the Hindu Marriage Act, 1955 against petitioner-husband seeking divorce on the ground of cruelty.

7. Learned counsel appearing for the respondent submits that earlier efforts were made to settle the matter, but the petitioner-husband backed out despite finalisation of the terms of settlement. Attention of this Court is drawn to the order dated 21.09.2022, wherein it is clearly recorded that the petitioner herein after agreeing to all the terms of settlement, refused to settle the matter.

8. This Court has also perused the various order-sheets of the case pending between the parties in the Family Court. By order dated 24.09.2022, right of the petitioner-husband to cross-examine respondent-wife had been closed. Thus, the matter was put up for evidence on behalf of the petitioner herein on 24.09.2022. Thereafter, the petitioner had been taking dates as recorded in the orders dated 09.11.2022 and 17.12.2022 of the Family Court.

9. Subsequently again, when the matter was taken up on 23.01.2023, a request for adjournment was made on behalf of the petitioner herein. Thus, the impugned order dated 23.01.2023 came to be passed by the learned Family Court, wherein the opportunity to lead evidence on behalf of the petitioner herein was closed.

10. It is seen that the opportunity of the petitioner-husband to cross-examine respondent-wife was closed way back on 24.09.2022. The petitioner-husband did not challenge the said order and made no efforts to seek opportunity to cross-examine the respondent-wife, who is the petitioner in the family Court. Similarly, opportunity of the husband to lead evidence was closed way back on 23.01.2023. The petitioner did not challenge the said order also and it is only now when arguments have been heard by the Family Court and judgment has been reserved, that the husband has approached this Court now by way of the present petition.

11. This Court takes note of the fact that the petitioner kept changing his counsels again and again. An adjournment was sought on behalf of the petitioner herein before the learned Family Court on 22.02.2023. Subsequently on 27.03.2023, a new counsel appeared on behalf of the petitioner herein before the learned Family Court and sought adjournment. Thereafter again when the matter was listed on 20.04.2023, another new counsel put in appearance on behalf of the petitioner herein and again sought adjournment.

12. Learned counsel for the respondent has also drawn the attention of this Court to Section 19 of the Family Courts Act, 1984, in order to contend that the present petition under Article 227 of the Constitution

of India would not be maintainable. It is submitted that the impugned order dated 23.01.2023 is not an interlocutory order, and is a final order, since the right of evidence of the petitioner herein has been closed.

13. Learned counsel appearing for the respondent also relies upon a judgment dated 18.12.2017 passed by Division Bench of this Court in MAT.APP (F.C.) 150/2017, which was an appeal under Section 19 of the Family Courts Act, 1984. In the said case, the Court did not allow further time for cross-examination on behalf of the appellant therein, on the ground that enough opportunities had already been granted. Thus, it is submitted that the present writ petition is not maintainable and no ground as such has been shown by the petitioner for the purposes of granting any further opportunity for cross-examination.

14. At this stage, learned counsel appearing for the petitioner on instructions submits that the counsel may be given an opportunity to argue and make their submissions before the learned Family Court on the next date of hearing i.e. 28.04.2023 when the matter is listed. It is submitted that the present counsel was unable to make arguments before the learned Family Court on 20.04.2023, for the reason that the counsel had recently been engaged and needed time for preparation of his case.

15. Learned counsel appearing for the respondent very fairly submits that he has no objection if an opportunity is granted to the learned counsel for the petitioner herein to make his submissions before the learned Family Court.

16. Learned counsel appearing for the respondent has already completed his arguments and has also filed his written submissions in the Court of learned Family Court.

17. Considering the facts and circumstances of the case and in order to give an opportunity to the learned counsel appearing for the petitioner herein to make his submissions before the learned Family Court, it is directed that arguments shall be heard on behalf of the petitioner herein by the learned Family Court on the next date of hearing i.e. 28.04.2023 when the matter is listed.

18. It is further made clear that no adjournment shall be sought on behalf of the petitioner herein before the learned Family Court on the next date of hearing and that the arguments shall be completed on the next date of hearing.

19. Further, the petitioner herein would also be at liberty to file any written submissions along with any judgments they wish to rely upon before the learned Family Court

20. With the aforesaid directions, the present petition is disposed of.

APRIL 26th, 2023
c **MINI PUSHKARNA, J**