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

% *Date of decision: 16th August, 2023*

+ **MAT.APP.(F.C.) 177/2023**

SANDIP SEN

..... Appellant

Through: Mr. Samama Suhail & Mr. Mohd. Shahid, Advocates with appellant in person.

versus

BOBBY SEN

..... Respondent

Through: Ms. Mansi Sharma & Ms. Astha, Advocates with respondent in person.

26

+ **MAT.APP.(F.C.) 97/2023**

SANDIP SEN

..... Appellant

Through: Mr. Samama Suhail & Mr. Mohd. Shahid, Advocates with appellant in person.

versus

BOBBY SEN

..... Respondent

Through: Ms. Mansi Sharma & Ms. Astha, Advocates with respondent in person.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)



CM APPL. 31460/2023 (Condonation of delay) in MAT.APP.(F.C.) 177/2023

1. *Vide* the present application, the applicant/appellant seeks condonation of 75 days' delay in filing the present appeal.
2. For the reasons and grounds stated in the present application, the application is allowed, the delay of 75 days in filing the present appeal is condoned.
3. Accordingly, the present application is disposed of.

MAT.APP.(F.C.) 177/2023 & MAT.APP.(F.C.) 97/2023

4. *Vide* the present appeals, the appellant seeks following prayers: -

MAT.APP.(F.C.) 177/2023

“(i) to set aside the impugned order dated 07.12.2022 passed by Mr. Naresh Kumar Malhotra, Ld. Judge Family Courts, East, Karkardooma Courts, Delhi in CT No. 02/2018 in case titled as “Sandip Sen Versus Bobby Sen” by initiating contempt proceedings against the Respondent and in favor of the Appellant in the interest of justice.

(ii) To call the record of case-titled as “Sandip Sen Versus Bobby Sen” in CT No. 02/2018 decided by Mr. Naresh Kumar Malhotra, Ld. Judge Family Courts, East, Karkardooma Courts, Delhi (Disposed of on 07.12.2022).

(iii) To call the record of First Motion case-titled as “Sandip Sen and Bobby Sen” in HMA No. 1164/2013 allowed by Mr. Anurag Sain, Ld. ADJ, East, Karkardooma Courts, Delhi (Disposed of on 31.01.2014)”

MAT.APP.(F.C.) 97/2023

“(i) To set aside the impugned judgement and decree dated 07.12.2022 passed by Mr. Naresh Kumar Malhotra, Ld. Judge Family Courts, East, Karkardooma Courts, Delhi in HMA No. 117/2012 (old) and HMA No. 312 of 2019 (new) in case titled as “Sandip Sen Versus Bobby Sen” by passing a



decree of dissolution of marriage under section 13 (1) (ia) of The Hindu Marriage Act, 1955 in favor of the Appellant in the interest of justice.

(ii) To call the record of case-titled as “Sandip Sen Versus Bobby Sen” in HMA No. 117/2012 (old) and HMA No. 312 of 2019 (new) decided by Mr. Naresh Kumar Malhotra, Ld. Judge Family Courts, East, Karkardooma Courts, Delhi (Disposed of on 07.12.2022).

(iii) To call the record of First Motion case-titled as “Sandip Sen and Bobby Sen” in HMA No. 117/2012 allowed by Mr. Anurag Sain, Ld. ADJ, East, Karkardooma Courts, Delhi (Disposed of on 31.01.2014)”

5. On the last date of hearing i.e., 10.08.2023, the parties sought adjournment to settle all the issues *inter se* them. Today with intention and assistance of the Court, the parties have agreed voluntarily and without any coercion to the following terms of settlement: -

- (i) That the appellant/husband shall pay an amount of Rs. 30,00,000/- (Rupees Thirty Lakhs/-) to the respondent/wife and their daughter.
- (ii) That out of aforesaid Rs. 30,00,000/- (Rupees Thirty Lakhs/-), the appellant/husband shall pay an amount of Rs. 15,00,000/- (Rupees Fifteen Lakhs/-) to the respondent/wife. Rs. 15,00,000/- (Rupees Fifteen Lakhs/-) shall be given to their daughter, Aayana Sen, which shall be kept in an FDR with maturity on attaining the majority by the minor. However, the mother shall be entitled to withdraw the interest quarterly to meet the day-to-day expenses of the child.
- (iii) That the appellant shall, in addition, continue to pay an



amount of Rs. 10,000/- (Rupees Ten Thousand/-) per month to the daughter towards her education and other expenses till she starts earning or gets married, whichever is earlier.

- (iv) That the parties shall file a petition under Section 13(b) of the Hindu Marriage Act, 1955 before the learned Family Court seeking divorce by mutual consent. That the parties shall file the first motion within ten days from today.
- (v) That after completion of first motion, the parties shall move the second motion along with an appropriate application before the learned Family Court seeking waiver of the statutory period for second motion.
- (vi) That the appellant shall pay an amount of Rs. 30,00,000/- (Rupees Thirty Lakhs/-) in the aforesaid bifurcated manner on completion of second motion.
- (vii) That on completion of second motion, the respondent/wife shall receive a payment of Rs. 30,00,000/- (Rupees Thirty Lakhs/-) simultaneously, and the respondent/wife shall vacate the matrimonial home and shall hand over the peaceful possession to the appellant/husband on or before the date of acceptance of second motion.
- (viii) That if the appellant/husband fails to pay the aforesaid amount, the respondent/wife shall continue to live in the matrimonial home.
- (ix) That if the respondent/wife fails to vacate the matrimonial home even after receiving the said amount and tries to create any hindrance in vacating the matrimonial home, the Station



House Officer (SHO) concerned is directed to ensure the vacation of matrimonial home by the respondent/wife and handing over the peaceful possession to the appellant/husband.

- (x) That if the appellant/husband fails to pay the amount of Rs. 30,00,000/- (Rupees Thirty Lakhs/-) on completion of second motion, the respondent/wife shall continue to live in the matrimonial home.
- (xi) That the appellant shall visit Assam where the respondent/wife intends to reside, to meet the daughter from the onset of 04th day of her summer vacation to 14th day from 10:00 A.M. to 06:00 P.M. each day and during winter vacation from 18.12.2023 to 25.12.2023 between 10:00 A.M. and 05:00 P.M..
- (xii) That if the daughter wishes to spend more time with her father beyond the aforesaid time, she is allowed by respondent/wife.
- (xiii) That for the aforesaid visitation, the appellant/father may meet the daughter either at Assam or at Delhi, subject to mutual consent of the parties. The respondent shall keep the appellant/husband informed about her correct address.
- (xiv) That the respondent/wife shall withdraw maintenance petition bearing No. MT 379/2022 titled Bobby Sen vs. Sandip Sen and Execution Petition bearing No. Ex.(Civ.) 04/2022 titled Bobby Sen vs. Sandip Sen both pending before the learned Family Court, East, Karkardooma Courts, Delhi,



before the second motion.

- (xv) That if any of parties breaches the terms of the settlement as agreed before this Court, the appellant and the respondent both shall have the right to revive the present appeals by moving appropriate application.

6. The parties undertake to be bound by the terms of settlement. It is made clear that if breach of any terms of the aforesaid settlement on behalf of either parties, the defaulting party shall be liable to Contempt of Court and shall be prosecuted under the Contempt of Courts Act, 1971.

7. It is also made clear that if the respondent/wife resiles from the aforesaid terms of settlement made before this Court, she shall return whole amount to the appellant/husband along with interest @ 7% per annum.

8. In view of above settlement, learned counsel for the appellant seeks leave to withdraw the present appeals.

9. Leave granted.

10. The present appeals are dismissed as withdrawn.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 16, 2023

S.Sharma