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

% Judgment delivered on: 17th May, 2023

MAT.APP.(F.C.) 208/2022

+ **MAT.APP.(F.C.) 208/2022 & CM APPL. 54936/2022 (stay)**

SANSHU KHURANA Appellant

versus

KIMSI SINGLA Respondent

Advocates who appeared in this case:

For the Appellant: Mr. Ankur Bhasin, Advocate with appellant in person.

For the Respondent: Mr. Gurjit Singh with Ms. Deepti Dogra, Advocates with respondent in person.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns order dated 28.11.2022, whereby, the application filed by the appellant seeking striking off the defence of the respondent has been dismissed.
2. Parties are present in person along with their respective counsel. Parties agree that they shall take divorce by way of mutual consent.
3. Respondent, who is present in person, submits that she does not claim any maintenance or alimony from the appellant. Respondent

further undertakes that she shall withdraw/compound/cooperate in quashing of the subject FIR No.410/2022 under Sections 498A/406/34 IPC, Police Station Prashant Vihar.

4. The undertakings are accepted.

5. Parties pray that the petition filed by the appellant seeking divorce under Section 13(1)(ia) and 13(1)(ib) of Hindu Marriage Act, 1955 be permitted to be amended and converted into a petition for divorce by mutual consent.

6. In view of the above, the oral prayer of the parties is accepted and the petition filed by the appellant under Section 13(1)(ia) and 13(1)(ib) of the Act is allowed to be amended and is converted into a petition under Section 13B(1) for grant of divorce on mutual consent (First Motion) on the records of the Family Court.

7. The amended petition duly signed and supported by respective affidavits of the parties is directed to be filed before the Family Court on 08.06.2023. Parties shall be personally present before the Family Court for recording of their respective statements under Section 13B(1) of the Act on the said date.

8. Parties further pray that in view of the fact that they are living separately since August, 2021 and been in litigation, the statutory period under Section 13B(2) be waived.

9. On an application being filed, seeking waiver of the statutory period of six months, the Family Court shall take into account the fact

that the parties have been living separately since 2021 and have been in litigation and resumption of cohabitation has not been possible and grant waiver of the statutory period under Section 13B(2) of the Act in accordance with law.

10. Appeal is disposed of in the above terms.

11. Order Dasti under the signatures of the Court Master.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

MAY 17, 2023
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