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

+ CRL.M.C. 344/2024, CRL.M.A. 1367/2024 CRL.M.A. 1368/2024

SHRI ASHOK KUMAR

.....Petitioner

Through: D. Pattnaik, Adv.

versus

SMT SUNITA

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

23.08.2024

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1. Notice was issued by this Court by order dated 20th May 2024 and petitioner was granted liberty to request the Trial Court to adjourn the matter **only on the next date** and matter was re-notified for today.

2. Today, counsel for petitioner states that he has not filed the process fee and requests for extension of request of adjournment before the Trial Court. This has prompted the Court to peruse the impugned order.

3. The petition was filed under the DV Act, pursuant to which the petitioner-husband was summoned, who entered appearance on 5th September 2018. Thereafter, since he did not present himself, the matter was listed *ex- parte* for the complainant's evidence.

4. The application for setting aside the *ex parte* order was moved, which was dismissed by the Metropolitan Magistrate *vide* impugned order dated 29th March 2020.

5. Subsequently, the Appellate Court has traversed through the entire record and noted that pursuant to 5th September 2018, the respondent



(petitioner herein) did not file reply on 18th October 2018, 3rd January 2019, 28th March 2019, 24th June 2019, 11th July 2019 and thereafter on 6th September 2019. Therefore, the defence was struck off. The Trial Court was therefore prompted to proceed with the matter *ex- parte*. On 21st October 2019, 16th December 2019 and 29th February 2020, the petitioner entered appearance but he did not file his reply nor his income affidavit.

6. On several subsequent dates, as noted by the Appellate Court, the matter continued to be adjourned for reply on the application and finally on 20th December 2020, the matter was fixed for 29th March 2020. On 29th March 2020, the counsel for respondent still did not appear and the impugned order was passed. The Appellate Court therefore, dismissed the appeal challenging the *ex parte* order of the Trial Court, having noted these circumstances.

7. From the above conspectus, it is evident that petitioner has tried his best to delay the proceeding before the Trial Court since 2018, 6 years back, prompting the orders of the Trial Court and the Appellate Court. The Court does not find any infirmity in these orders. The plea of having appeared and being diligent are belated and baseless.

8. Even today, after having been given the opportunity to serve the notice since May 2024, has not taken any steps. The submission made today is for another adjournment and to extend the date before the Trial Court yet again. Courts cannot countenance repeated omissions by a contesting party especially when repeated opportunities are given at each stage of adjudication. The line has to be drawn sometime and at some stage. Else grave prejudice will be caused to complainants who are awaiting conclusion of their trials and proceedings.

9. The petition is accordingly dismissed with these observations.



10. Order be uploaded on the website of this Court.

AUGUST 23, 2024/sm

ANISH DAYAL, J