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

+ **MAT.APP.(F.C.) 59/2024**

SHIVAM DEMBLA & ANR.

..... Appellants

Through: Mr Rudra Vikram Singh and Mr
Tarshith Bhardwaj, Advocates.
Appellant no.1 through VC.
Appellant no.2 in person.

versus

NEMO

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

27.02.2024

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[Physical Hearing/Hybrid Hearing (as per request)]

1. On the previous date, we had heard the counsel for the appellants.
2. After hearing the counsel for the appellants, we had set down the broad contours of the case. For convenience, the relevant part of the order dated 20.02.2024 is extracted hereinafter:

“2. This appeal is directed against the judgment and order dated 24.01.2024, passed by the Principal Judge, Family Courts, Patiala House Courts, New Delhi wherein, the application filed on behalf of the appellants for waiving off the statutory period of one year under Section 14(1) of the Hindu Marriage Act, 1955 [in short, “1955 Act”] has been rejected.”

3. The record shows that the appellants entered into matrimony on 10.05.2023 and they separated on 22.05.2023.

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4. *We are told that the application under Section 14(1) of the 1955 Act was filed on 09.01.2024.*

5. *The appellants have also filed a petition under Section 13B of the 1955 Act.*

5.1 *The said application cannot proceed further in view of the fact that the appellants, admittedly, have not lived separately for a minimum period of one year as prescribed under sub-section 1 of section 14 of the 1955 Act.*

6. *It is the case of the counsel for the appellants that the proviso to sub-Section 1 of Section 14 of the 1955 Act can be triggered in the facts and circumstances of the case.*

7. *We are told that the appellant no.1 i.e., the husband, is a citizen of Canada and is likely to leave India soon.*

8. *We would like the appellants to remain present in court on the next date of hearing, before we proceed further in the matter.*

9. *List the appeal on 27.02.2024.”*

3. Today, the appellant no.1 has joined the proceedings through video conferencing, while the appellant no.2 is physically present in court.

4. We have interacted with the appellants. The appellants seem to have temperamental differences, which, apparently are irreconcilable.

5. The appellant no.1 informs us that he is a citizen of Canada and is presently employed in a company located in Toronto.

6. The appellant no.2 on the other hand, is a resident of Delhi and is employed in a company located in Gurugram.

7. Apart from geographical distance, there is also a huge temperamental chasm between the couple.

8. That said, the only glitch in passing the decree of divorce, as is evident on



perusal of the impugned judgment and order, is that the appellants have not lived separately for the minimum statutory period of 1 year.

9. Since the appellants will complete the minimum statutory period on 22.05.2024, the pending petition under Section 13(B) of the Hindu Marriage Act, 1955 in our view, can be considered thereafter.

10. The Family Court can also consider waiving the cooling off period of 6 months between the First Motion and the Second Motion, given the circumstances obtaining in the matter.

11. The pending Section 13(B) petition will be listed before the concerned Family Court on 24.05.2024, for consideration of the First Motion.

12. The concerned Family Court will permit the appellant no.1 to join the proceedings *via* video conferencing, in case he is not able to visit India and remain physically present.

13. Furthermore, if a request is made, as indicated above, to waive the statutory period of 6 months between the date of First Motion and Second Motion, that too will be considered by the Family Court.

14. The appeal is disposed of in the aforesaid terms.

15. The Registry will dispatch a copy of this order to the concerned Family Court.

16. Parties will act based on the digitally signed copy of the order.

17. Pending application, if any, shall stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

FEBRUARY 27, 2024/at

Click here to check corrigendum, if any

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