



\$~41

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 2840/2024 & CM APPL. 36537/2024 & CM APPL. 36538/2024**
SHAIK MUDDASSAR NAZARPetitioner

Through: Mr. Mohd Parvez Dabas and Ms. Uzmi Jameel Husain, Advocates.

versus

DARSHANA @ AYESHA FATIMARespondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER
03.07.2024

%

1. Respondent happens to be the wife of petitioner and she has filed a petition seeking divorce under Dissolution of Muslim Marriages Act, 1939.
2. Petitioner herein was served with the summons and appeared before the learned Judge, Family Courts, North Rohini, Delhi.
3. On 09.01.2024, since no reply/written statement had been filed by the petitioner herein despite clear warning given on the last date of hearing, opportunity to file written statement was closed and his defence was struck off by the learned Trial Court.
4. Consequently, the case was fixed for recording of evidence of his wife. It is apprised that Ms. Darshana (respondent herein) had already examined herself and the matter is now listed for final arguments.
5. When asked, learned counsel for petitioner, very fairly, admitted that he never moved any application seeking recall of order dated 09.01.2024 and

CM(M) 2840/2024

1



has straightaway filed the present petition under Article 227. He seeks an opportunity in this regard.

6. The next date before the learned Trial Court is stated to be 26.07.2024.

7. None has appeared on the advance notice.

8. Keeping in mind the overall facts and circumstances of the case and the statement made by Shri Dabas, learned counsel for petitioner, the present petition is disposed of with the direction to the petitioner to move appropriate application before the learned Trial Court seeking recall of order dated 09.01.2024.

9. Let such application be moved within two weeks from today with an advance copy to the other side.

10. Learned Trial Court shall consider such application and dispose of the same in accordance with law.

11. Before parting, this Court would like to clarify that this Court has not made any observation qua the merits of the case and the learned Trial Court would decide the application without getting prejudiced by any observation made hereinabove.

12. Needless to say, if petitioner feels aggrieved again and his such application is dismissed, he would be at liberty to file fresh petition before this Court.

MANOJ JAIN, J

JULY 3, 2024/SW