



\$~31

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

+ **MAT.APP.(F.C.) 230/2024 & CM No.41187/2024**

RAMINDER SINGH

.....Appellant

Through: Mr Shahrukh Ahmad, Mr Mandeep
Baisala and Mr Yashpal Singh, Advs.

versus

HARGUN KAUR SAHNI

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

23.07.2024

%

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

1. This appeal is directed against the order dated 29.05.2024, passed by Ms Charu Aggarwal, learned Family Court Judge, Family Court-01, Tis Hazari Courts, West District, New Delhi.
2. Via the impugned order, the Family Court has allowed the application preferred by the respondent under Order IX Rule 7 of the Code of Civil Procedure, 1908 [in short, "CPC"] and Section 5 of the Limitation Act, 1963.
3. The sum total of the brief impugned order is that in matrimonial matters, the parties should have an opportunity to have their say on merits.
4. It is the contention of Mr Shahrukh Ahmad, learned counsel, who appears on behalf of the appellant, that the assertion made by the respondent

MAT.APP.(F.C.) 230/2024

page 1 of 3



before the Family Court that she was unaware of the pendency of the divorce petition is not correct.

4.1 For this purpose, Mr Ahmad seeks to rely on the screenshots of the WhatsApp conversation between the parties, along with an affidavit of service as also the e-mail dated 28.01.2023.

5. While broadly, the appellant may be right, we are in agreement with the learned Family Judge that matrimonial matters require the parties to have their say, even if there is some delay in approaching the Family Court. The Family Court can take an indulgent view if the parties do not approach the court in time, provided the delay is not abnormal, tactical and ill intended. These matters, in our opinion, would have to be distinguished from commercial cases.

5.1 Troubled marital life, at times custody of children, their health and educational issues, lack of wherewithal are aspects which do not come to the fore and yet impact prosecution of case with expected alacrity.

6. We may also add that it is one of the contentions of the appellant that since name of the parties are not shown in the e-court's portal, the respondent could not have gained knowledge about the proceedings as contended by the respondent.

7. According to us, it is well known that each case is unique i.e., is based on its own set of facts. It is possible that the respondent became aware of the proceedings much later i.e., when the orders were uploaded.

8. That apart, as indicated above, we are not inclined to interfere with the discretion exercised by the learned Family Court.



9. Before concluding, it may be relevant to indicate that in the application filed by the respondent under Order IX Rule 7 of the CPC, a ground has been taken concerning the absence of territorial jurisdiction with regard to the divorce petition preferred by the appellant.

10. It is not disputed by the learned counsel for the appellant that the marriage, in the first instance, was held on 24.10.2020 at Arya Samaj Mandir, Shahdara, Delhi-110093 and that the registration certification dated 26.10.2020 was issued by District Magistrate, Shahdara.

10.1 It appears that thereafter, another marriage ceremony (as per Sikh rights) was conducted on 04.04.2021.

10.2 According to the respondent, the parties have last resided in an apartment located in Dublin.

11. These are the aspects that the Family Court, in any event, would have to examine, even if the respondent is proceeded ex-parte.

12. In the fitness of things, this is a matter which, perhaps, requires a trial on merits.

13. The appeal is disposed of, in the aforesaid terms. Consequently, the pending application shall stand closed.

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

RAJIV SHAKDHER, J

AMIT BANSAL, J

JULY 23, 2024/aj

[Click here to check corrigendum, if any](#)

MAT.APP.(F.C.) 230/2024

page 3 of 3