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

+ **MAT.APP.(F.C.) 375/2023**

RACHNA SINGH

..... Appellant

Through: Mr Maroof Ahmad, Advocate

versus

SACHIN KUMAR

..... Respondent

Through: Mr Vikram and Mr Akhil Ganga,
Advocates along with respondent in
person.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

12.01.2024

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

1. This appeal is directed against the order dated 20.10.2023, passed by the learned Family Court Judge.
2. The record shows that the respondent/husband had instituted a petition under Section 13(1)(ia) of the Hindu Marriage Act, 1955, to seek divorce on the ground of cruelty.
3. While the proceedings were on, parties appear to have drawn up a Settlement Agreement dated 03.07.2023 [in short "SA"].
 - 3.1. A perusal of the impugned order shows that broadly, the parties had agreed that they would seek divorce based on 'mutual consent'.
4. It appears that the appellant/wife resiled from the settlement arrived at between the parties. Since, the appellant-wife was not clear about certain terms of the SA, the parties were referred to the Mediation Centre.

MAT.APP.(F.C.) 375/2023

Page 1 of 3



5. The learned Family Court Judge also records that the appellant/wife reneged from the commitment which was captured in the SA.
6. Because the appellant/wife resiled from her obligations under the SA, the learned Family Court Judge decided to take recourse to measures which, according to us, are completely unsustainable in law.
7. The learned Family Court Judge, having regard to the fact that the appellant/wife, along with her two children, was located in Netherlands, and was not amenable to the jurisdiction of the Court in India, decided to issue a direction for her deportation.
- 7.1. It is in this context that the learned Family Court Judge called upon the Government of India *via* the Ministry of External Affairs to interface with the Government of Netherlands so that the appellant/wife along with her children is deported to India.
8. The divorce petition is listed for further proceedings before the learned Family Court Judge on 19.01.2024.
9. The record also shows that when the appeal came up for hearing before the coordinate bench, the operation of the impugned order dated 20.10.2023 was stayed by an order dated 18.12.2023.
10. According to us, the direction contained in the impugned order to have the appellant/wife and her children deported to India is completely misconceived.
11. The learned Family Court Judge should not have passed such a direction, which affected not only the appellant/wife but also the rights of her children.
12. In these circumstances, the impugned order is set aside.

MAT.APP.(F.C.) 375/2023

Page 2 of 3



13. The learned Family Court Judge is requested to take up the matter on the date already fixed i.e., on 19.01.2024.
14. Counsel for the appellant/wife shall remain present on the said date.
- 14.1 Furthermore, the appellant/wife will join the proceedings through video-conferencing [in short, “VC”].
15. The learned Family Court Judge will transmit a link of his court to the appellant/wife 48 hours prior to the next date of hearing i.e., 19.01.2024.
16. Needless to add, if the appellant/wife does not join the proceedings *via* VC, the learned Family Court Judge will be free to draw adverse inference against her in the matter.
- 16.1 We may note that the father of the appellant/wife who is acting as her special power of attorney holder is present in Court.
17. Accordingly, the present appeal is disposed of.
18. The pending applications are closed.
19. Parties will act based on the digitally signed copy of the order.
20. The Registry is directed to dispatch a copy of the order to the concerned court.

RAJIV SHAKDHER, J

AMIT BANSAL, J

JANUARY 12, 2024/rt

Click here to check corrigendum, if any