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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of decision: 05th September, 2024***
+ **CM(M) 214/2024 & CM APPL. 6734/2024 & CM APPL. 6736/2024**
DOLLY

.....Petitioner
Through: Mr. S G Goswami with Ms. Pavitra
Veer, Mr. Vikram Singh and Mr.
Shinu Gupta, Advocates with
petitioner in person.

versus

DUSHYANT KUMAR

.....Respondent
Through: Mr. L B Rai with Ms. Prachi Hasija
and Mr. Vineesh Tyagi, Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
J U D G M E N T (oral)

1. Petitioner is defending a petition seeking divorce filed by her husband.
2. She is aggrieved by order dated 18.10.2023 whereby her request to set aside order dated 12.01.2023, vide which she had been proceeded against *ex-parte*, has been declined.
3. Learned counsel for respondent/husband appears on service.
4. Few important facts and dates are not disputed.
5. Admittedly, the notice of the petition was issued to the respondent-wife



(petitioner herein) and the same was also duly served upon her on 18.11.2022.

6. She did not appear before the learned Family Court on the immediately following date i.e. 12.01.2023 and, therefore, her right to file reply was closed and she was proceeded against *ex-parte*, same day.

7. Of course, she filed an application, *albeit*, belatedly seeking setting aside of the *ex-parte* order but that also did not find favour.

8. According to petitioner, she get perplexed because of the fact that one more case was filed by her under Section 125 of Cr.P.C which was pending before the same Court and she did not realize that it was a separate petition filed by her husband.

9. Undoubtedly, the above said ground may not seem to be compelling enough but the fact remains that the endeavor of the Court should be to decide the matter on merits, instead of, on technicalities, particularly, when it comes to a petition filed under Hindu Marriage Act.

10. Keeping in mind the overall facts and circumstances of the case and the nature of the case which has been filed by the respondent herein, it will be in the fitness of the things, if one opportunity is granted to petitioner to defend the above said divorce petition.

11. Resultantly, the present petition is allowed while directing the petitioner to file written statement within one week from today before the learned Family Judge with advance copy to the respondent/learned counsel for respondent.



12. Petitioner is, however, cautioned that she would not be entitled to any unnecessary adjournment in future and would defend her case very diligently.
13. Petition stands disposed of in the aforesaid terms.
14. Order *dasti* under the signatures of Court Master.

(MANOJ JAIN)
JUDGE

SEPTEMBER 5, 2024/sw