



2025:DHC:1754-DB



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

Date of decision: 19.03.2025

+ **MAT.APP.(F.C.) 113/2025**

JYOTI DAHIYA

.....Appellant

Through: Mr. Ashok K. Singh, Ms.
Ankita and Mr. Deepak Kumar,
Advs.

versus

ZUBER ANSARI

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 16072/2025 (Exemption)

1. Allowed, subject to all just exceptions.

CM APPL. 16073/2025 (Delay of 144 days)

2. For the reasons stated in the application, the delay of 144 days in filing the appeal is condoned.

3. This application stands disposed of.

MAT.APP.(F.C.) 113/2025 & CM APPL. 16074/2025

4. This appeal has been filed by the appellant, challenging the



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Order dated 24.08.2024 passed by the Learned Judge Family Court-01, (NE), Karkardooma Court, Delhi in ML No. 42/2022 titled ‘**Zuber Ansari vs. Shama @ Jyoti**’, dismissing the application filed by the appellant under Order VII Rule 11 of the Code of Civil Procedure, 1908 (in short, ‘CPC’) seeking rejection of the petition filed by the respondent for restitution of conjugal rights.

5. The respondent had filed the above petition seeking restitution of the conjugal rights with the appellant on the ground that a Nikaah was performed between the parties on 12.03.2019, whereafter, the appellant left the company of the respondent and despite requests had not joined the same.

6. The appellant filed the above application stating that in Muslim Law, there is no provision for the restitution of the conjugal rights. It was further submitted that the marriage was null and void having been conducted by force.

7. The learned Family Court, however, has held that the plea raised by the appellant are matters of trial and at this stage, it cannot be said that the petition filed by the respondent is not maintainable.

8. The learned Trial Court, as far as the maintainability of a petition seeking restitution of the conjugal rights is concerned, has placed reliance on the Judgment of the Gujarat High Court in **Jinnat Fatma Vajirbhai Ami vs. Nishat Alimadbhai Polra**, 2021 SCC Online Guj. 2075.

9. We do not find any infirmity in the Impugned Order warranting any interference of this Court. The appellant has not been able to make out a case falling within the scope and ambit of Order VII Rule 11



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CPC, warranting short-circuiting the trial. The issues raised by the appellant would require trial.

10. Accordingly, the appeal alongwith pending the application is dismissed.

11. It is, however, made clear that the impugned or the present Order shall not in any manner influence the trial of the petition pending before the learned Family Court.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MARCH 19, 2025

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Click here to check corrigendum, if any