



\$~62

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ MAT.APP.(F.C.) 257/2025, CM APPL. 42252/2025 (Delay of 33 days in filing the appeal) & CM APPL. 42253/2025 (Stay)

Y SURYA NAGARJUNAAppellant
Through: Mr. Gautam Singh, Advocate

versus

UDAY KIRANRespondent
Through: Ms. Preeti Singh, Mr. Sunklan Porwal, Ms. Anuradha Anand and Ms. Sakshi Trivedi, Advocates

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

% **ORDER**
26.08.2025

1. The present Appeal, under section 19 of the Family Courts Act, 1984, has been preferred by the Appellant impugning the Order dated 25.02.2025 passed by the learned Principal Judge, Family Court, Patiala House Courts, New Delhi, in HMA No. 410/2019.
2. Learned counsel for the Appellant admits that a Petition filed cannot be rejected in part while exercising powers under Order VII Rule 11 of the Code of Civil Procedure, 1908 [**"CPC"**], however, he submits that the averments in the Petition for annulment of marriage under Section 12(1)(c) of the Hindu Marriage Act, 1955 must be deleted or the Respondent should be directed to amend the Petition.
3. This Court has considered the submissions. The scope of the Appellate Court against an Order passed by the learned Family Court



is to examine its legality.

4. As admitted by the learned counsel for the Appellant, a common Petition was filed seeking alternative reliefs; for annulment of marriage or, in the alternative, a Decree of divorce. This Court is of the view that the Petition for divorce is maintainable. Hence, there is no error in the impugned Order.

5. Learned counsel for the Appellant further submits that he was proceeded against *ex-parte vide* Order dated 25.02.2025, which is the Order Impugned herein.

6. In our opinion, the effect of the *ex-parte* proceeding against the Appellant is only with respect to that particular date, therefore, the Respondent/Appellant herein is entitled to appear on the next date of hearing.

7. As the application filed under Order IX Rule 7 of CPC has been dismissed, the Appellant/Respondent therein may not be entitled to be relegated to the same position when he was proceeded against the *ex-parte*. However, he is entitled to join the proceeding prospectively.

8. In view of the above, no ground is made out to interfere with the impugned order. Accordingly, the present Appeal is dismissed.

9. Accordingly, the present Appeal, along with pending application(s), if any, is disposed of in the aforementioned terms.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

AUGUST 26, 2025/rk/va