



2025:DHC:3370-DB



\$~27

* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 06.05.2025***+ MAT.APP.(F.C.) 283/2024
JYOTI MEHRA

.....Appellant

Through: Mr. Siddharth Mittal, Mr.
Abhijeet Varshney, Mr. Sumit
K Sharma, Mr. Darshan Sejwal,
Mrs. Shilpa G. Mittal, Advs.

versus

KAMAL KANT

.....Respondent

Through: Mr. Vikrant Chauhan, Adv.
with Respondent in person.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE RENU BHATNAGAR****NAVIN CHAWLA, J. (Oral)****CM APPL. 49206/2024 (D-58 days in filing)**

1. For the reasons stated in the application, the delay of 58 days in filing the appeal is condoned.
2. The application stands disposed of.

MAT.APP.(F.C.) 283/2024

3. This appeal has been filed challenging the Order dated 16.05.2024 passed by the learned Judge, Family Court-01, South District, Saket Courts, New Delhi in HMA No. 390/2023 titled ***Jyoti Mehra v. Kamal Kant***, dismissing the divorce petition filed by the appellant under Sections 13(1)(ia) and 13(1)(ib) of the Hindu Marriage Act, 1955 (hereinafter referred to as, 'HMA') on the ground that the appellant has been unable to prove the allegations against the



2025:DHC:3370-DB



respondent.

4. The appellant had initially filed the divorce petition against the respondent on 01.07.2021 before the learned Family Court, Faridabad. Subsequently, on a petition filed by the respondent seeking transfer of the said divorce petition, the Supreme Court, *vide* an Order dated 16.01.2023, transferred the said divorce petition to the learned Family Court, Saket Courts.

5. The record reveals that thereafter, the respondent filed several applications before the learned Family Court, including an application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (in short, 'CPC') seeking amendment of the written statement, another under Order XI Rules 1 and 14 of the CPC, and yet another under Order VIII Rule 1A of the CPC. While the applications under Order VI Rule 17 of the CPC and under Order XI Rules 1 and 14 of the CPC were dismissed by the learned Family Court *vide* Orders dated 22.12.2023 and 14.03.2024 respectively, the application under Order VIII Rule 1A of the CPC was allowed *vide* Order dated 06.04.2024, subject to payment of costs of Rs. 5,000/- by the respondent to the appellant herein. The said application was allowed primarily because the appellant did not file her reply to the said application despite opportunity being granted to her.

5. Thereafter, the divorce petition was listed for the appellant to lead her evidence. However, the appellant failed to do so on 27.04.2024, 09.05.2024, and also on 16.05.2024, when she sought an



2025:DHC:3370-DB



adjournment, which was refused by the learned Family Court; her opportunity to lead evidence was closed; and the divorce petition was dismissed for want of evidence.

6. The learned counsel for the appellant submits that the appellant had been suspended from her services by an Order dated 22.03.2024, and had to be at Fatehabad to receive her charge-sheet on 16.05.2024. He submits that it was for these reasons that the appellant was unable to lead her evidence before the learned Family Court.

7. On the other hand, the learned counsel for the respondent submits that the Order Sheets of the learned Family Court reflect that the appellant had been taking repeated adjournments. The same has also been recorded by the learned Family Court in the Impugned Order dated 16.05.2024.

8. We have considered the submissions made by the learned counsels for the parties and perused the record.

9. As noted hereinabove, the divorce petition had been transferred from the learned Family Court at Faridabad to the learned Family Court at Saket, New Delhi. It is not denied that at the relevant time, the appellant was posted at Palwal, but was later transferred to Fatehabad, and had been suspended from her services, whereafter, a charge-sheet was issued against her, which she was to collect from Fatehabad on 16.05.2024. She was, therefore, facing multiple issues at the same time, including prosecuting the present divorce petition. We also find that the respondent was also filing repeated applications in



2025:DHC:3370-DB



the divorce proceedings, reference of which we have given hereinabove.

10. Taking into account the totality of the above circumstances, we are of the opinion that one further opportunity should be granted to the appellant to lead her evidence in the divorce petition filed by her. However, this has to be subject to payment of costs to the respondent as the respondent has been burdened with further litigation.

11. Accordingly, subject to the payment of costs of Rs. 20,000/- by the appellant to the respondent, to be paid within a period of four weeks from today, the Impugned Order dated 16.05.2024 is set aside, and the divorce petition is restored to its original number.

12. The parties shall appear before the learned Family Court on 14th July, 2025.

13. The appellant shall ensure that on the date fixed by the learned Family Court for producing her evidence, she duly appears and produces her evidence and does not seek any unwarranted adjournments before the learned Family Court.

14. The appeal is disposed of in the above terms.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MAY 06, 2025/ab/sm/SJ

Click here to check corrigendum, if any