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

+ MAT.APP.(F.C.) 327/2025, CM APPL. 57115/2025 (Stay), CM APPL. 57116/2025 (Ex.), CM APPL. 57117/2025 (Ex. from filing complete trial court record) & CM APPL. 57118/2025 (Delay of 28 days in filing the appeal)

SUDHA JAINA

.....Appellant

Through: Mr. Dinesh Kumar Gupta &
Mr. Trivesh Sharma, Advs.

versus

DR ER RAJAINDEERR JAINA

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

ORDER

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10.09.2025

1. The present Appeal, under Section 19 of the Family Courts Act, 1984, assails the order passed by the learned Principal Judge Family Court, (South East), Saket, Delhi [**"Family Court"**], dated 27.05.2025 in HMA No. 887 of 2022.
2. The Appellant and Respondent are husband and wife.
3. A petition for grant of a decree of divorce came to be filed by the Respondent under Section 13(1)(ia) & (ib) of the Hindu Marriage Act, 1955 [**"HMA"**], on the grounds of desertion and cruelty.
4. Thereafter, an application was filed by the Appellant/Respondent therein, for rejection of the petition under Order



VII Rule 11, read with section 151 of the Code of Civil Procedure. 1908, [“CPC”] at the threshold, which has been rejected by the learned Family Court.

5. In substance, the Appellant claims that the Respondent in the year 2014 filed a petition for grant of a decree of divorce, which was dismissed for non-prosecution on 05.09.2017. Hence, the present petition before the learned Family Court is not maintainable under Order IX Rule 9(1) of the CPC.

6. Secondly, it is claimed that the petition does not disclose cause of action.

7. The learned Family Court has, after examining the copy of the divorce petition, come to the conclusion that the Respondent has made averments with respect to the period prior to and after 05.09.2017.

8. Moreover, a new ground for grant of decree of divorce, namely, desertion has been added to the petition.

9. Learned counsel appearing for the Appellant submits that the learned Family Court has not considered the judgment of this Court in ***Nidhi Jain vs. Ankit Jain*** [2023 SCC OnLine Del 4369] and of the Punjab and Haryana High Court in ***Ram Kalan vs. Purshotam Alias Mintu*** [2013 SCC OnLine 12365].

10. At the stage of considering an application under Order VII Rule 11 of the CPC, only the contents of the divorce petition are required to be examined. The plea sought to be taken by the Appellant may constitute her defence. However, it cannot be used to reject the petition at the threshold.

11. Hence, this Court is of the opinion that no ground to interfere has been made out.

12. Accordingly, the present appeal, along with pending



application(s), if any, is dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 10, 2025/ v/va