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

+ **MAT.APP.(F.C.) 9/2021**

MUKESH MORE

..... Appellant

Through **Mr.PrateekMaheshwari, Adv.**

versus

SONI KUMARI

..... Respondent

Through **Mr.PrateekMaheshwari, Adv.**

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **22.01.2021**

CM APPL. 2303/2021 (Exemption)

Exemption allowed, subject to all just exceptions.

MAT.APP.(F.C.) 9/2021

This appeal has been preferred by the husband – Mukesh More to assail the order dated 25.11.2020 passed by the Principal Judge, Family Court, Central District, Tis Hazari, Delhi, presided over by Mrs. Shail Jain.

Mr. PrateekMaheshwari, learned counsel for the appellant submits that he has filed a petition under Section 13B(1) of the HMA, 1955 on behalf of both the husband and the wife seeking a decree of divorce by mutual consent of the parties. Mr. Maheshwari submits that the petition was preferred in terms of the procedure devised by Family Court for filing and

hearing of such like petitions through Video Conferencing due to the ongoing Covid-19 pandemic. The said procedure, laid down by the Principal Judge, Family Court (Headquarters), Dwarkaon 01.05.2020 has been placed on record as Annexure-A2. Mr. Maheshwari further submits that while passing the impugned order, the learned Principal Judge has not followed the procedure laid down in Annexure-A2 and is insisting upon physical presence of the parties. On 25.11.2020, when the impugned order was passed, the respondent/wife (petitioner no. 2 before the Family Court), who resides in Delhi, was personally present before the Court during hearing, but the appellant/husband, who is a resident of Ujjain, Madhya Pradesh, was not present before the Court and, therefore, the learned Principal Judge adjourned the matter to 16.01.2021 for verification of documents by the appellant personally. Once again, on 16.01.2021, the matter stands adjourned.

He further submits that the statements of the parties for the first motion were recorded way back on 22.07.2020 through video conferencing, but because of the procedure being followed by the learned Principal Judge making it mandatory for the parties to appear personally before the Court for verification of documents, the joint petition filed by the parties is still pending. Learned counsel for the appellant further submits that it is only this particular Principal Judge, Family Court, Central Distt., Tis Hazari, Delhi, who is adopting the aforesaid procedure, which is contrary to the laid down procedure as devised in Annexure-A2, whereas all other Principal Judges of the Family Courts in other districts are proceeding to dispose of petitions under Section 13B(1) through video conference mode, without insisting for the personal presence of either party for verification of

documents. Learned counsel states that both the parties have duly complied with the said procedure in all respects and there was no occasion for any doubt regarding the documents or conduct of the parties on any of the aspects. Thus, there was no justification for the learned Principal Judge, Family Courts, Central District, Delhi to adjourn the proceedings to 16.01.2021 to await the physical presence of the appellant herein.

In the light of the aforesaid, we are of the view that the learned Principal Judge ought to have allowed the appellant/husband to verify the documents through video conferencing, especially when both his counsel as also the respondent/wife were physically present in Court. We, therefore, dispose of this appeal, inter alia, in exercise of our jurisdiction under Article 227 of the Constitution of India, with a direction to the Principal Judge, Family Court, Central Distt., Tis Hazari to deal with the petition preferred by the parties in HMA No.473/2020 in terms of the procedures laid down by the Principal Judge, Family Court (Headquarters), Dwarka, Delhi on 01.05.2020(Annexure-A2).

The appeal stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

REKHA PALLI, J

JANUARY 22, 2021

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