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

% *Date of decision: 31st July, 2023*

+ **MAT.APP.(F.C.) 127/2023 & CM APPL. 23305/2023**

SMT. K.S. SUMI MOL Appellant

Through: Mr. Ajeesh Kalathil Gope &
Mr. Vineeth S, Advocates with
appellant in person.

versus

SH. SURESH KUMAR E.K. Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. *Vide* the present appeal, the appellant is seeking following reliefs:-

“(i) Set aside the impugned order dated 07.02.2023 passed by Ld. Judge-02, Family Court, South-West District, Dwarka District Courts, New Delhi in HMA Pet. No.2800/2017 and pass a judgment and draw a decree of divorce thereon based on the documentary evidences available on record in favour of the Appellate/Petitioner and against the Respondent by invoking provisions w/o VIII Rule-10 of CPC r/w Section 148 & 151 of CPC and its inherent powers vested under article 227 of the Constitution of India as the respondent failed to place on record the written statement wilfully and deceitfully over a period of 5 years and 6 months (over a period of 2000 days);

(ii) Kindly issue direction to Ld. Judge-02, Family Court, South-West District, Dwarka District Courts, New Delhi to set aside the impugned order dated 07.02.2023 and to pass a Judgment and draw a decree of divorce thereon based on the documentary evidences available on record, in favour of the Appellant/Petitioner and against the



Respondent by invoking provisions u/o VIII Rle-10 of CPC as the respondent failed to place on record the written statement wilfully and deceitfully over a period of 5 years and 6 months (over a period of 2000 days);

(iii) Pass any other order/direction in favour of the Petitioner/Appellant and against the Respondent as the fundamental rights of life and liberty guaranteed u/s Article 21 of the constitution of India is being curtailed as the Appellant/Petitioner is compelled to pursue the matter endlessly as case is being considered and heard at the cost of her beautiful life period as such the right to life and the liberty;

(iv) Kindly, issue directions to the Ld. Judge-02 Family Court, Dwarka District Courts, Dwarka to initiate proceedings against the Respondent with respect to the application u/s 340 Cr.PC r/w 195 Cr.PC dated 21.11.2022 and further application dated 27.04.2023, which is long pending adjudication;

(v) Kindly pass other order with the vested inherent powers of this Hon'ble Court as no Court can grant extension of limitation against the provisions of the enactment under which the case is being considered and heard before Ld. Judge-02, Family Court, District Courts, Dwarka."

2. From the order sheets of the learned Family Court, we gather that the respondent has been lingering on the divorce petition as neither has the Written Statement been filed on time nor is the respondent conducting the trial diligently. More so, the respondent is playing hide and seek with the Family Court.

3. The divorce petition was filed way back on 12.09.2017 and despite repeated opportunities, the Written Statement was filed on 08.05.2023 after a period of 5 years and 6 months, which is highly belated. The delay in filing the written statement was condoned *vide* impugned Order dated



07.02.2023 passed by the learned Family Judge, Dwarka and consequently, the written statement was taken on record.

4. Before parting with this case, we may observe that the matrimonial litigation must not be allowed to linger inordinately over a long period of time as it is not only painful and acrimonious for the parties but also such long drawn litigation is many a times, motivated by the intention of either party to drag the litigation. **Reducing judicial delay and improving litigation processes** by case management techniques are important elements of increasing access to justice. The intrinsic value of the justice system lies in its role in contributing to an effective social and economic framework. We find that while the Code of Civil Procedure, 1908 provides for timeline to be adhered to and similar Rules have being enacted for the Commercial Courts Act, 2015, no such Rules giving any timeline have been framed till date in respect of the family litigation despite the directions of the Apex Court in the case of Salem Advocates Bar Association vs. Union of India (2005) 6 SCC 344 wherein it was recommended that the matrimonial litigation must be put in Track I for expeditious disposal. The Supreme Court in Imtiyaz Ahmad v. State of Uttar Pradesh and Others (2017) 3 SCC 658 recognised that achieving rule of law and access to justice entails better management of courts to reduce delay.

5. **Section 23 of the Family Courts Act, 1984** gives power to the State Government to make rules for carrying out any of the defined purposes of the Act. One of the main objectives of the Act is to secure speedy settlement of disputes relating to marriage and family affairs. However, the Family Court in Delhi seems to have not been able to dispense speedy, as happened in the present case. Therefore, we are compelled to frame



inter alia guidelines to avoid the multiple litigation as happening in the matrimonial disputes.

6. In view of the above, and in the absence of any specific Rules regarding the speedy disposal of cases relating to marriage and family affairs within a time frame, we hereby lay down the guidelines for strict observance by all the Family Courts in Delhi, till such time rules are formulated by the State Government in consultation with the High Court of Delhi.

“ Guidelines

a. Issue of Summons: *When a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and to file the written statement of his defence, if any, within thirty days from the date of service of summons on that defendant:*

Provided that no such summons shall be issued when a defendant has appeared at the presentation of plaint and admitted the plaintiff's claim:

Provided further that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons.

Provided further, the time taken for conciliation, mediation or



interaction shall be excluded.

- b. Inspection: (1) *All parties shall complete inspection of all documents disclosed within thirty days of the date of filing of the written statement. The Court may extend this time limit upon application at its discretion, but not beyond thirty days.*
- (2) *Any party to the proceedings may seek directions from the Court, at any stage of the proceedings, for inspection or production of documents by the other party, of which inspection has been refused by such party or documents have not been produced despite issuance of a notice to produce.*
- (3) *Such application shall be disposed of within thirty days of filing such application, including filing replies and rejoinders (if permitted by Court) and hearing.*
- (4) *If the above application is allowed, inspection and copies thereof shall be furnished to the party seeking it, within five days of such order.*
- (5) *No party shall be permitted to rely on a document, which it had failed to disclose or of which inspection has not been given, save and except with leave of Court.*
- c. Admission and Denial of Documents: *Each party shall submit a statement of admissions or denials of all documents disclosed and of which inspection has been completed, within fifteen days of the completion of inspection or any later date as fixed by the Court.*
- d. Case Management Hearing: *The court shall hold the first Case*



Management Hearing, not later than four weeks from the date of filing of affidavit of admission or denial of documents by all parties to the suit.

In a Case Management Hearing, after hearing the parties, and once it finds that there are issues of fact and law which require to be tried, the court shall-

(i) frame the issues after examining pleadings, documents and documents produced before it, and on examination conducted by the court under Rule 2 of Order X, if required;

(ii) List the number of witnesses to be examined by the parties;

(iii) Fix the schedule of the dates and evidence led by parties with all endeavour to complete the evidence in six months.

(iv) Fix the date for oral arguments within ten days and it shall be open for the Court to limit the time for oral submissions having regard to the nature and complexity of the matter.

(v) Fix the date for filing the written arguments and a party shall, within four weeks prior to commencing the oral arguments, submit concisely and under distinct headings written arguments in support of their case to the Court and such written arguments shall form part of the record and shall be filed within fifteen days;

(vi) No adjournment shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(vii) Set time limits for parties and their advocates to address



oral arguments.

In fixing dates or setting time limits, the court shall ensure that the arguments are closed not later than two months from the date when the evidence of the parties was concluded.

(viii)The interim applications for ‘maintenance pendente lite’, ‘interim custody’ and all other miscellaneous applications relating to marriage/family affairs shall be decided within 90 days from the date of filing.

e. Judgment & Decree: (1) The court, shall, within thirty days of the conclusion of arguments, which shall not extend beyond sixty days, pronounce judgment and copies thereof shall be issued to all the parties to the dispute through electronic mail or otherwise.”

7. The impugned Order dated 07.02.2023 does not merit any interference as it is in the interest of justice that the aforesaid petition be decided on merits. However, noting the conduct of the respondent and his dilatory tactics, we hereby direct the Family Court to make an endeavour to decide the petition within three months from today.

8. It is made clear that if the respondent or his counsel tries to take adjournment, the same shall be subject to costs, at the discretion of the Family Court. If the Family Court may grant adjournment only on appropriate and proper ground, however, come what may, the petition shall be decided within the aforesaid given time.

9. It is further made clear that if the petition is not decided within three months, the Family Judge shall seek extension of time, if it is required, from this Court. However, the same shall be subject to a reasoned order



giving the reasons to seek time.

10. Accordingly, the present appeal is disposed of.

11. Copy of this Order be transmitted to all the Principal Judges of Family Courts and Principal District & Sessions Judges for information and strict compliance.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

JULY 31, 2023

S. Sharma