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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CM(M) 3021/2024

RASHMI PRABHA

.....Petitioner

Through: Mr. Barun Kumar Sinha with
Mrs. Pratibha Sinha, Mr. Sneh
Vardhan, Advocates.

versus

VIKASH KUMAR

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

26.07.2024

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CM APPL.41945/2024 (exemption)

Exemption allowed subject to all just exceptions.

CM(M) 3021/2024 & CM APPL. 41944/2024 (stay)

1. Petitioner is defending a divorce petition filed by her husband.
2. Initially, such divorce petition was pending before the learned Principal Judge, Vaishali, Hajipur, Bihar but in view of the fact that a transfer petition was filed before the Hon'ble Supreme Court, the aforesaid divorce petition was transferred to Delhi as the petitioner herein is based in Delhi.
3. Earlier, when the matter was pending before the Family Court, Vaishali, Hajipur, Bihar, the petitioner prayed for an adjournment. However, the adjournment was not granted and her evidence was also



directed to be closed vide order dated 29.10.2018.

4. After transfer, an application was moved before the Family Court, Delhi seeking recall of said order.
5. Undoubtedly, the aforesaid application had been moved after a delay of more than 5 years. Learned Family Court, keeping in mind the fact that the delay was not explained, did not interfere with the above order and, resultantly, her application was dismissed on 22.05.2024.
6. This is how the petitioner has come here by invoking Article 227 of the Constitution of India.
7. It is contended that after the case was transferred to Delhi, the matter could not be pursued in the desired manner, primarily, on account of ill-health of her counsel, who was suffering from cancer, who, eventually, died this year only. It is contended that there was never any intention to not participate in the divorce proceedings, particularly, in view of the fact that she herself had prayed transfer of the case from Hajipur to Delhi.
8. I have seen the reasons assigned in the application seeking condonation of delay which had been moved before the learned Family Court.
9. The petitioner is directed to place on record the copies of all the orderseets, passed by the learned Family Court, Delhi after receipt of the case on transfer.



10. Issue notice to respondent through all permissible modes including dasti, returnable on 20th August, 2024. Notice be also issued through counsel.

11. The next date before the learned Family Court is stated to be 08.08.2024 for final arguments.

12. The learned Trial Court may hear the final arguments but is requested not to pronounce the judgment.

MANOJ JAIN, J

JULY 26, 2024
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