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

+ **CM(M) 486/2022**

SANJAY SINGH

..... Petitioner

Through: Mr.Prateek Maheshwari, Advocate

versus

SUKHPAL KAUR

..... Respondent

Through: Mr.Prateek Maheshwari, Advocate

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Date of Decision: 24th May, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

C.M.24802/2022 (exemption)

Exemption is allowed subject to all just exceptions.

Application stands disposed of.

CM(M) 486/2022

1. The present petition has been filed for seeking directions to the Family Court, Rohini, North West, Delhi to follow (i) the orders of the Hon'ble Supreme Court of India, Delhi High Court and directions issued by Principle Judge, Family Court (Headquarter), Dwarka, Delhi regarding hearing of Mutual Divorce cases to be taken up via video conferencing and (ii) to direct Family Courts of Delhi to follow the

existing guidelines or issue appropriate guidelines as this Court may deem fit, in relation to virtual system of hearings.

2. It is stated that the petitioner and the respondent got married on 29th November, 2017 at Delhi, in accordance with Hindu rites and ceremonies and residing together within the jurisdiction of learned Judge, Family Court, Rohini, North West, Delhi. The parties currently work and reside in Portugal and thus, the parties signed and attested their case file before the notary in Portugal. The parties also filed an application to conduct the Court hearing through video conferencing.
3. On 22nd April, 2022, when the case was taken up, the joint counsel of the parties was physically present in the Court and both the parties were logged in virtually through Cisco webex. However, the learned Judge, Family Court, Rohini, North West, Delhi did not record the statement of the parties and adjourned the matter for 3rd August, 2022 ordering that both the parties are residing and working for gain at Portugal and are not within the jurisdiction of the Court today. It was further stated that no SPA is on record to represent the parties.
4. It is stated that the order passed by the learned Judge, Family Court, Rohini, North West, Delhi dated 22nd April, 2022 is in complete disregard to the directions issued by :
 - Hon'ble Supreme Court of India in para no. 22 of Civil Appeal No.11158/2017 titled as '**Amardeep Singh Vs. Harveen Kaur**'.
 - Hon'ble Delhi High Court in MAT.APP (F.C.) No. 9/2021 titled as '**Mukesh More Versus Soni Kumari**'.
 - The Hon'ble Delhi High Court via notice No.34/RG/DHC/2022 dated 11th February, 2022

- Hon'ble Family Court Headquarters, Dwarka Via Circular No.3530-3589Cir./Admn./FC/DWK/2020 dated 1st May, 2020.
5. It has further been stated that the order is also in violation of the directions issued by this Court from time to time regarding conducting Court proceedings through Video Conferencing. It is stated that there is no requirement for the parties to be either physically present themselves or any SPA to be physically present in Court, and the Court should allow the first motion between the parties after recording their statements via video conferencing.
 6. Sh. Prateek Maheshwari, learned counsel for the parties submits that an application under Section 151 CPC was also moved to conduct the Court proceedings virtually as both the parties were residing in Portugal and thus, were unable to travel to India for physical hearing. Learned counsel further submits that the reluctance of the Judge, Family Court, Rohini, North West, Delhi in recording the proceedings/statements of the parties virtually is not in accordance with the directions issued by the Superior Courts from time to time.
 7. In recent past, the justice dispensation system has seen much advancement in the use of technology in conducting the Court proceedings. Courts have come forward to use the system of video conferencing for efficient and expeditious conduct of proceedings for the purpose of benefit of all stakeholders of the system.
 8. In '**Amardeep Singh Vs. Harveen Kaur**' Supreme Court in Civil Appeal No.11158/2017 arising out of Special Leave Petition (civil) No. 20184 of 2017 while dealing with a petition relating to grant of mutual divorce *inter alia* held as under;

“22. Needless to say that in conducting such proceedings the Court can also use the medium of video conferencing and also permit genuine representation of the parties through close relations such as parents or siblings where the parties are unable to appear in person for any just and valid reason as may satisfy the Court, to advance the interest of justice.

9. In ***Reena Chadha & Anr. V. Govt. Of NCT of Delhi*** 2021 SCC OnLine Del 4336 in W.P.(C) 6653/2021, this Court was dealing with a petition filed by an Indian Couple residing in the United States of America (USA), seeking a direction to the concerned Sub-Divisional Magistrate (SDM), New Delhi to register their marriage in accordance with the provisions of the Delhi (Compulsory Registration of Marriage) Order, 2014 without insisting on their physical appearance before him. This Court after taking into account, the relevant law *inter alia* held as under;

“19. In light of the aforesaid, I am of the view that, in times such as these, when technology has proven to be the bridge that ensured uninterrupted communication, widespread dissemination of information in public interest and the smooth functioning of society, the Court cannot allow a rigid interpretation of the statute to prevent citizens from exercising their rights.

20. In a little over half a decade, since the Registration Order was notified, the universe has undergone a sea change but the Registering Authority, while exercising its power and jurisdiction under the Registration Order is refusing to recognize the reality that with the technology as is available today, web portals and Video Conferencing have become almost the norm.

21. In fact, if not for the acceptance of Video Conferencing as the norm, this Court and the judicial system in this country would have come to a grinding halt, and would not have been able to function at a time, when there was the greatest need for the citizens of this

country to have access to justice. These aspects appear to have been simply overlooked by the Registering Authority, who's continuing to insist on that the parties must remain present physically before him.

22. At this stage, it may also be useful to refer to the observations of the Supreme Court in paragraph 24 of the judgment in **Anuradha Bhasin v. Union of India, (2020) 3 SCC 637** in which the Court emphasized the need to adapt technological advancements while dispensing justice. The same reads as under:

“24. Law and technology seldom mix like oil and water. There is a consistent criticism that the development of technology is not met by equivalent movement in the law. In this context, we need to note that the law should imbibe the technological development and accordingly mould its rules so as to cater to the needs of society. Non recognition of technology within the sphere of law is only a disservice to the inevitable. In this light, the importance of internet cannot be underestimated, as from morning to night we are encapsulated within the cyberspace and our most basic activities are enabled by the use of internet.”

(Emphasis supplied)

10. In this case, this Court has also taken into consideration the decision of the Hon'ble Supreme Court in **State of Maharashtra V. Praful B. Desai (Dr), (2003) 4 SCC 601** and in **Charanjit Kaur Nagi V. Govt. Of NCT of Delhi & Ors., 2007 SCC OnLine Del 1393**.
11. This Court in '**Mukesh More Versus Soni Kumari**' MAT.APP (F.C.) No. 9/2021 vide its order dated 22nd January, 2021 *inter alia* held as under;

“In the light of the aforesaid, we are of the view that the learned Principal Judge ought to have allowed the appellants/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).”

12. It is pertinent to mention that Annexure –A2 is the direction issued by office of the Principle Judge, Family Court Headquarter, Dwarka, Delhi whereby the procedure to be adopted for hearing of certain categories of cases through video conferencing by the Principle Judges/Additional Principle Judges/ Judges, Family Courts, Delhi were issued in compliance with the directions issued by the High Court of Delhi vide Letter No. R-123/RG/DHC/2020 dated 30th April, 2020.
13. I consider that learned Judge, Family Court, Rohini, North West, Delhi has fallen into an error by not recording the statement of the parties in the first motion merely because they were residing at Portugal. The Courts have to march in sync with the latest developments in technology. The system of conducting Court proceedings through video conferencing is being encouraged by the Apex Court and this Court. It is thus, expected of the judges in the District Courts also to ensure that such a system of conducting the proceedings through video conferencing is put to usage. Virtual proceedings provide an opportunity to modernise the system by making it more affordable and citizen friendly, enabling the aggrieved and/or litigants to access justice from remote parts of the country and the world. Reluctance of the judges to conduct virtual proceedings is not in alignment with the

technological advancements. Courts must keep in mind that the gap between physical presence and virtual presence has been bridged.

14. In view of this, the learned Judge, Family Court, Rohini, North West, Delhi is directed to deal with the petition preferred by the parties in HMA No. 744/22 under Section 13B (1) HMA in terms of the procedure laid down by the Principle Judge, Family Court (Headquarter), Dwarka, Delhi and other directions issued by this Court from time to time as per law. This Court also expects that the learned Judge, Family Court, Rohini, North West, Delhi shall fix an early date as per the Calendar for recording the statements of the parties in first motion in Petition bearing HMA No. 744/22 under Section 13B(1) HMA.
15. With these observations, the petition stands disposed of.

DINESH KUMAR SHARMA, J

24 May, 2022

Pallavi