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

Date of decision: 28.04.2025

+ MAT.APP.(F.C.) 156/2025

BHARTI VERMA

.....Appellant

Through: Ms. Preeti Singh, Mr. Sunklan
Porwal, Ms. Shefali Menezes,
Ms. Sakshi Trivedi, Ms. Ayushi
Kumari, Advocates.

versus

ADITYA DUDEJA

.....Respondent

Through: Mr. Rajeev Sharma and
Mr. Vinayak Sharma,
Advocates.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

**CM APPL. 24731/2025 (Exemption from filing original/ certified/
legible copies of annexures) and CM APPL. 24732/2025
(Exemption from filing lengthy synopsis and list of dates)**

1. Allowed, subject to all just exceptions.

**MAT.APP.(F.C.) 156/2025 and CM APPL. 24730/2025 (for interim
directions)**

2. This appeal has been filed under Section 19 of the Family Courts Act, 1984, challenging the Order dated 28th March, 2025 passed by the learned Judge, Family Court, Patiala House Court, New Delhi in HMA No. 122/2023, titled '*Aditya Dudeja vs. Bharti Verma*', dismissing the application filed by the appellant herein seeking stay of the further proceedings in the above HMA filed by the



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respondent, and further, closing the right of the appellant to conduct the cross-examination of PW2 - Mr. Ved Prakash Dudeja, father of the respondent herein.

3. Just to give a brief background of the facts in which the present appeal arises, the marriage between the parties was solemnized on 08.12.2022. On 27.01.2023, the respondent filed the above petition under Section 12(1)(b) and (c) of the Hindu Marriage Act, 1955 (hereinafter referred to as 'HMA') seeking annulment of the marriage. The appellant, in turn, on 03.11.2023, filed a petition under Section 9 of the HMA, seeking restitution of the conjugal rights before the learned Family Court, Karkardooma, Delhi, being HMA No. 2138/2023. In the meantime, the right of the appellant to file the written statement in the petition filed by the respondent was closed by the learned Family Court *vide* order dated 08.08.2023, which the appellant challenged by way of a petition under Article 227 of the Constitution of India, being CM(M) 138/2024. The same was allowed by an order of this Court dated 23.01.2024, with the following observations and directions:

“7. In view of the above submissions, as well as in the interest of justice, the written statement of the petitioner is allowed to be taken on record subject to cost of Rs. 10,000/- to be paid to the respondent herein tomorrow. It is stated that the matter is listed tomorrow before the learned Trial Court. It is further directed that the petitioner herein shall not delay the proceedings of the case by taking unnecessary adjournments before the learned Trial Court.”



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4. The appellant withdrew her petition under Section 9 of the HMA, being HMA No. 2138/2023, on 04.03.2025, with liberty in the following terms:

“In view of the statement of the petitioner, the petitioner is permitted to withdraw this petition with such liberty as may be available in accordance with the law for filing the fresh petition.”

5. The appellant thereafter proceeded to file another petition under Section 9 of the HMA, being HMA No. 274/2025. She also filed an application under Section 10 of the Family Courts Act, 1984 seeking directions to the respondent to amend the pleadings and place certain documents in a sealed cover. She further filed an application seeking stay of the further proceedings in the HMA filed by the respondent, in view of her filing the fresh petition under Section 9 of the HMA.

6. The learned Family Court, by the impugned order, has dismissed the application of the appellant seeking stay of the further proceedings in the HMA filed by the respondent. The learned Family Court has further closed the right of the appellant to cross-examine PW2, who was present in Court on the said date and whose examination-in-chief was recorded by the Family Court on the said date.

7. The learned counsel for the appellant submits that as the issues involved in the HMA filed by the respondent under Section 12(1)(b) and (c) of the HMA would be somewhere overlapping with the



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petition filed under Section 9 of the HMA by the appellant, the learned Family Court has erred in dismissing the application seeking stay of the petition filed by the respondent. She further submits that in any case, another opportunity to cross-examine PW2 should be granted to the appellant as a vital right will get affected due to the impugned order.

8. On the other hand, the learned counsel for the respondent, who appears on an advance notice of this appeal, contends that the learned Family Court has rightly rejected the claim of the appellant seeking stay of the petition filed by the respondent herein, observing therein that there would be no common issues involved in the two petitions, i.e., one filed by the respondent and another filed by the appellant. He further submits that the appellant's conduct is only intended to delay the adjudication of the petition filed by the respondent, and the application filed by the appellant was filed only with this intent.

9. As far as the opportunity to the appellant to cross-examine PW2 is concerned, he fairly submits that the same may be allowed as one final opportunity to the appellant, subject to payment of costs for the delay and inconvenience that has been caused.

10. We have considered the submissions made by the learned counsel for the parties.

11. The learned Family Court, while dismissing the application, filed by the appellant seeking stay of the further proceedings of the petition filed by the respondent, has observed as under:



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and circumstances concerning the respondent whereas in the petition under Section 9 of the HMA the question would be as to whether respondent therein has withdrawn from the society of the petitioner therein without reasonable excuse and that question could be valid only when marriage survives that is not declared nullity. Hence, therefore, in both the petitions two different questions needs to be answered by the court and therefore, there would be no justification to stay the present matter that too when present petition stage-wise is way ahead of the subsequent petition which has been listed today for the first time after its institution.”

12. The submission of the learned counsel for the appellant that there would be overlapping issues between the petition filed by the respondent and the one filed by the appellant does not impress us. The respondent has filed above petition claiming that the marriage had been solemnized on the basis of concealment of material facts by the appellant. The respondent, however, does not deny the factum of the marriage. Therefore, the only issue that is to be determined in the petition filed by the respondent is whether there was a fraud committed or there was some material concealment by the appellant prior to the marriage on the basis of which the marriage between the parties was solemnized. On the other hand, the issue before the learned Family Court in the petition which is filed by the appellant, which is still at an initial stage and had been filed only on the day when the impugned order was passed and the petition filed by the respondent was listed for recording further evidence of the respondent, would be whether the respondent has rightly or wrongfully withdrawn



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from the society of the appellant and whether the prayer made by the appellant in the said petition is entitled to be granted. Therefore, the issues between the two petitions would be distinct and not overlapping.

13. In any case, as noted hereinabove, the petition filed by the respondent has proceeded to the stage of recording of the evidence, while the petition filed by the appellant is only at an initial stage. Further proceedings in the petition filed by the respondent were, therefore, rightly not stayed by the learned Family Court only because the appellant, at this belated stage, decided to file her own petition under Section 9 of the HMA after withdrawing her earlier petition.

14. As far as the opportunity to cross-examine PW2 is concerned, the learned counsel for the respondent has fairly conceded that another opportunity may be granted to the appellant to cross-examine PW2, however, subject to costs and also a direction to the learned Family Court to ensure that the same is concluded expeditiously.

15. Having considered the said submission and the order dated 23.01.2024 passed by this Court in CM(M) 138/2024, we dispose of this appeal with the following directions:

- (i) The impugned order only insofar as it closes the right of the appellant to cross examine the PW2, is set aside;
- (ii) PW2 shall be present before the learned Family Court on 20.05.2025 for his cross-examination;



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- (iii) The appellant shall cross-examine PW2 on the said day or such other day as the learned Family Court may direct;
- (iv) Any unwarranted request for adjournment by the appellant shall not be entertained by the learned Family Court;
- (v) The learned Family Court shall make an endeavour to ensure that the cross-examination of PW2 is concluded preferably within two effective dates;
- (vi) For availing the above opportunity to cross-examine PW2, the appellant shall pay costs of Rs.10,000/- to the respondent on or before 20.05.2025, failing which the right of the appellant to cross-examine the PW2 shall be treated as closed.
16. The appeal is disposed of in the above terms.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

28.04.2025

PB/medha/ik

Click here to check corrigendum, if any