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

+ MAT.APP.(F.C.) 116/2017 & C.M.24302/2017

ARVIND @ DEEPU Appellant

Through: Mr.Zain Ahmed, Advocate

versus

KOMAL @ KAVITA Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **29.10.2018**

C.M.24302/2017 (delay)

The present application has been filed by the appellant seeking condonation of delay in filing the present appeal.

For the reasons stated in the application, the delay of 30 days in filing the present appeal is condoned.

The application stands disposed of.

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A petition filed by the appellant herein under Section 9 of the Hindu Marriage Act has been disposed of by the Family court on the ground that the appellant herein was unable to trace the whereabouts of the respondent-wife. Reading of the impugned order dated 22.04.2017 would show that the petitioner (appellant herein) had provided the address of the parents of the respondent with the petition. The appellant had also stated on oath that the respondent has remarried on 03.10.2014 to one Pawan who is a resident of Palwal, whose address was not available with him. In this backdrop, the petition was dismissed

giving directions to the petitioner (appellant herein) to file a petition again if the petitioner (appellant herein) is able to trace the whereabouts of the respondent. Counsel for the appellant submits that the proper procedure that should have been adopted by the Family court was to allow the petitioner (appellant herein) to serve the respondent by publication, in case her whereabouts were not known and the family members of the respondent were not cooperating in providing the fresh address of the respondent. We find force in this submission made by the counsel for the appellant. Accordingly, order dated 22.04.2017 is set aside and the matter is remanded back to the Family court. The matter be listed there on 26.11.2018. The appellant shall make all efforts to ascertain the fresh and correct address of the respondent and if not available, he would seek such remedy as available to him in accordance with law including service of the respondent by publication.

With the above directions, the appeal is disposed of.

G.S.SISTANI, J

JYOTI SINGH, J

OCTOBER 29, 2018

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