

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
DECIDED ON: 03rd July, 2013

+ **FAO(OS) 621/2012 and CM APPL. 21415/2012, CM**
APPL.21416/2012, CM APPL. 21418/2012
MASTER ANANT NARAYAN RAI AND ANR Appellant

Through: Ms. Pinky Anand, Sr. Advocate with
Ms. Natash Sehrawat, Advocate.

versus

SIDDARTH RAI Respondent

Through: Mr. S.C. Maheshwari, Sr. Advocate
with Mr. H.C. Kharbanda and Mr.
M.P.S. Tomar, Advocates.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

% **MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)**

1. The present appeal challenges the order dated 29.8.2012, by which the application for enhancement of maintenance in view of the applicant-plaintiff having joined Scindia School, Gwalior was rejected.

2. The brief facts are that the appellant-plaintiff is the son of the first respondent. The parents of the plaintiff have a matrimonial discord and several litigations are pending before this Court as well as before the Court of competent jurisdiction at Mau, Uttar Pradesh. In one of the orders made by Court at Mau on 17.12.2009, the plaintiff was awarded Rs. 25,000/- towards maintenance which concededly the defendant/respondent has been paying. In other proceedings i.e. CS (OS) 1737/2007 the appellant's mother similarly sought maintenance. Initially, the learned Single Judge granted Rs.30,000/- as maintenance to the mother on 25.3.2010. The appeal preferred against the learned Single Judge was subsequently disposed off on 03.1.2013. The respondent-defendant has apparently carried that order in appeal by special leave to the Supreme Court.

3. The appellant sought enhancement/award of an amount of Rs.6,50,000/- per annum on account of the fact that he was admitted to the Scindia School from academic year 2012 was over and above the maintenance granted by Mau Court. The learned Single Judge was persuaded to hold that this Court is not an appropriate forum as the Mau Court had granted initial amount of maintenance of Rs.20,000/- and subsequently the plaintiff-appellant should approach that Court.

4. The counsel for the appellant urges that the approach and order of the learned Single Judge is not justified since there is no dispute about the fact that admission in Scindia School was obtained in the year 2012 in which the appellant has been studying. It was submitted that the respondent-defendant who is plaintiff's father can even pay the fees directly to the school. It was urged that the Court should have not taken a narrow technical view relegating the appellant who is a minor to seek relief in another court.

5. It is contended by Mr. S.C. Maheshwari, learned senior counsel for the respondent that the award of maintenance by the Mau Court as well as by this Court are the subject matter of the challenge before the Supreme Court in a common special leave petition. He submitted that a proper course in any event for the appellant would be to approach the Mau Court and that the learned Single Judge was justified in making the impugned order.

6. This Court has considered the submissions. The respondent does not dispute that the appellant, who is his son, has secured admission in Scindia School in which he was studying from the year 2012. However, what was contended — successfully as it appears from the reading of the impugned order — was that since the Mau Court awarded the amount of maintenance, that Court alone should exercise the jurisdiction, if at all, in considering the

issue of enhancement.

7. This Court is of the opinion that since there is no dispute with regard to the appellant having obtained the admission in the Scindia School and also the fact that he is a minor, the respondent's plea of this Court not being the appropriate forum, ought not to have been accepted in the facts and circumstances of the case.

8. The impugned order also holds that whether the respondent ought to bear the financial burden of paying for the fresh education needs of his son entirely or in part and to have been decided by the Court, considering the same, requiring the appellant, a minor, to again approach another Court, would not be in the opinion of this Court, appropriate under the circumstances.

9. In view of the above discussion, the impugned order is hereby set aside. The parties shall appear before the learned Single Judge who shall consider merits of their submissions and decide the IA No. 5753 of 2012 on its merits and proceed to pass the orders. The parties are directed to be present before the learned Single Judge on 01st August, 2013 for further proceedings in this regard. The appeal is allowed in the above terms.

10. It is clarified that nothing stated in this matter shall be construed as an expression on the merits of the applications referred by the applicant.

**S. RAVINDRA BHAT, J
(JUDGE)**

**NAJMI WAZIRI, J
(JUDGE)**

JULY 3, 2013/mv