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

+ CRL.REV.P. 628/2013

USHA

..... Petitioner

Through: Ms.Ravi Prabha, Advocate.

versus

BALRAJ SINGH

..... Respondent

Through: Mr.N.S.Dalal, Advocate.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **03.09.2015**

Heard the counsel for the parties.

The petitioner/wife has made a grievance that despite the Family Court assessing the income of the respondent at Rs.60,000/- per month, a maintenance amount of only Rs.10,000/- has been awarded in her favour. It is stated on behalf of the petitioner that there are no children born out of the wedlock and the amount of Rs.10,000/- as monthly maintenance is too meagre to be accepted. It has further been submitted that the respondent has other properties apart from the salary which he has been receiving during the tenure of his appointment.

Such a contention of the petitioner has been disputed by the respondent. It is submitted that the respondent has been maintaining a widow sister and has some other commitments also. During the

pendency of the present petition, the respondent retired and he is now getting a pension of Rs.10,040/- only. During the course of hearing of this petition, the pension paper of the respondent was produced. Let such documents be taken on record.

At the time when the assessment of the income of the respondent was made, he was serving as a Yoga teacher. The order is completely silent about the reasons for assessing the quantum of maintenance as Rs.10,000/-. No reason has been recorded by the Family Court for coming to the conclusion that Rs.10,000/- would be sufficient for the petitioner and that such amount was fixed by keeping in mind, the paying capacity of the respondent.

Since the order does not reflect any reason for the same, it cannot be sustained in the eyes of law.

Another development namely the retirement of the respondent also impresses this Court for remitting this case to the Family Court to decide afresh as to what quantum of maintenance is required to be paid by the respondent to the petitioner now.

It is however, directed that till the Court below finally decides the matter after remand, the respondent would continue to pay Rs.10,000/- to his wife, as directed by the Family Court.

The impugned order dated 17.0.2013 is set aside.

The matter is remitted to the Family Court, Rohini, Delhi for writing out a fresh order in accordance with law, after taking into account the present facts and circumstances.

The petition is disposed off.

ASHUTOSH KUMAR, J

SEPTEMBER 03, 2015

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