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

+ W.P.(CRL) 2195/2014

SHOBHA AGNIHOTRI

..... Petitioner

Through: Ms. Arunima Dwivedi, Adv. with
petitioner in person.

versus

STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Sanjay Lao, ASC for State with
SI Satish Bhati, P.S. Kalkaji.

Mr. Sumeet Verma, Adv. for R-2 with
R-2 in person.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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06.05.2015

Respondent no.2 is father of petitioner. He is 80 years old and is surviving on his pension amounting to around ₹ 20,000/-. He is also paying ₹ 5,000/- towards maintenance to his wife.

Petitioner is 37 years old and is able bodied and healthy person. She was married long ago but unfortunately her marriage could not survive for long and ultimately resulted in a decree of divorce on 29th September, 2012. Since then she is living in the house of respondent no.2. Respondent no. 2 has accommodated the petitioner in his house. Still she is not satisfied. Instead of earning her own livelihood, she claimed maintenance from his aged father by filing a petition under Section 12 of The Protection of

Women from Domestic Violence Act, 2005 before the trial court which is pending.

Petitioner filed an application for grant of interim maintenance which was dismissed by the Metropolitan Magistrate, Delhi on 16th December, 2013. Aggrieved by the said order, petitioner filed a Revision Petition which has also been dismissed by the learned Sessions Judge vide order dated 4th August, 2014.

That is how petitioner is before this Court by way of present petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973.

First of all, writ petition is not maintainable against the judicial order of trial court. Secondly, petitioner is a healthy and an able bodied person and is bound to fend herself by taking some kind of job. Sessions Judge has observed in her judgment that able bodied aged woman cannot claim maintenance for herself from his aged father of 80 years, who is a pensioner. I do not find any perversity or illegality in the view taken by the courts below while dismissing the interim application for maintenance.

Writ petition is dismissed.

A.K. PATHAK, J.

MAY 06, 2015

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