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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **MAT.APP.(F.C.) 86/2015**

*Date of Judgment : 15<sup>th</sup> October, 2015*

DEEPAK GUPTA ..... Appellant  
Through : Mr. Niraj Choudhary, Mr. A. S. Sharma,  
Advocates.  
versus

POOJA GUPTA ..... Respondent  
Through : Mr. Sanjay Kumar, Advocate.

**CORAM:**  
**HON'BLE MR. JUSTICE G.S.SISTANI**  
**HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL**

**G. S. SISTANI, J. (ORAL)**

**C. M. APPL. 11673/2015 (Delay)**

1. For the reasons stated in the application, the delay in filing the present appeal is condoned.
2. Application stands disposed of.

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3. Challenge in this appeal is to the order dated 16.04.2015 passed by the Family Court on an application filed by the respondent under Section 24 of the Hindu Marriage Act by which a sum of Rs. 7,000/- p.m. has been fixed towards maintenance pendente lite from the date of filing of the petition till the disposal of the petition. A sum of Rs.10,000/- has been fixed as litigation expenses. This amount has been fixed for the wife as well as the 6 years old minor school going child.

4. Learned counsel for the appellant submits that the Trial Court has failed to take into consideration that the appellant is a Driver and is earning only Rs.6,500/- p.m.. Learned counsel for the appellant further submits that the Family Court has failed to take notice of the certificate issued from Delhi India Transport Company (Regd.) to show that the appellant was being paid at Rs. 6,500/- p.m. Learned counsel further submits that Family Court failed to take into account that the appellant has taken a room on rent at a sum of Rs.3,000/- p.m. Thus, the maintenance fixed by the Family Court is unjust as the appellant is not in a position to pay this amount.
5. Learned counsel for the respondent submits that the Trial Court has fixed a conservative amount in the sum of Rs. 7,000/- p.m. for the respondent as also for the minor child. It is submitted that the respondent is educated upto Class IV or V and she has no source of livelihood, she is solely dependent upon her parents. Counsel further submits that the certificate sought to be relied upon by the appellant is a fabricated document. Another certificate has been handed over in court. (Original seen and returned), photocopy of the same has been taken on record as per which the Delhi India Transport Company (Regd.) has denied issuing any certificate to the appellant.
6. We have heard the learned counsel for the parties and carefully examined the impugned order.
7. In this case, the appellant is a driver. According to him, he is only earning Rs.6,500/- p.m. Reliance was placed by the appellant on a

certificate issued by his employer evidencing salary of Rs.6,500/- p.m. being paid to him. The stand of the appellant is unacceptable on account of the fact that firstly another certificate has been handed over in court from the employer wherein it has been denied that any prior certificate was issued to the appellant herein. The stand of the appellant that he is only earning Rs.6,500/- p.m. is also belied from the fact that the minimum wage of a skilled worker is Rs.11,000/- p.m. Court can also take judicial notice of the fact that the salary of a driver is far more than Rs.6,500/- p.m. as claimed by the appellant. We may notice another factor that initially the appellant was the owner of a van which was used to ferry school children. Additionally, it may be noticed that despite the Family Court having granted various opportunities, the appellant had not placed any affidavit of his income and assets on record. It has been repeatedly noticed by Courts that there is a tendency on the part of the spouse not to truthfully disclose his true income for proceedings for maintenance. In case of ***Jasbir Kaur Sehgal Vs. District Judge Dehradun & Ors. : (1997) 7 SCC 7***, it was held that some guess work on the part of the Court is permissible.

8. We have examined the order passed by the Family Court. We find no infirmity in the order passed by the Family Court. In our view the Family Court has fixed a conservative amount of Rs.7,000/- for the respondent and the minor child. The appeal is without any merit. The same is dismissed.

**C. M. APPL. 11671/2015 (Stay)**

9. In view of the order passed in the appeal, the application is also dismissed.

**G.S.SISTANI, J**

**SANGITA DHINGRA SEHGAL, J**

**OCTOBER 15, 2015**

**SC**