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

+ MAT.APP.(F.C.) 101/2015 & CM APPL. 13825/2015 (DELAY)

% ***Judgment dated 14.09.2015***

ANUP CHAUHAN

..... Appellant

Through : Mr.S.C. Kalra, Adv. along with appellant.

versus

MADHU CHAUHAN

..... Respondent

Through : Mr.P. Mishra, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Present appeal has been filed by the appellant under Section 19 of the Family Courts Act, 1984, seeking to challenge the impugned judgment dated 4.4.2015 passed by learned Additional Principal Judge, Family Court (West), Tis Hazari, Delhi, in HMA No.222/2014. Along with the present appeal, the appellant has also filed an application, being CM APPL. No.13825/2015 seeking condonation of sixty days' delay in filing the present appeal. The only ground urged in this application is that the previous counsel had informed the appellant that the period of limitation fixed is three months and further on the legal advice that since the period of limitation had expired there was no use in filing the present appeal resulted in delay in filing the present appeal.
2. We find this application to be highly casual in nature and no cogent grounds are made out to entertain this application, however, in the interest of justice, we have also heard counsel for the parties on merits.

3. In this case, marriage between the parties was solemnised on 4.5.2003 in accordance with Hindu Law. A girl child was born out of their wedlock on 12.10.2004, who is stated to be in the custody of the respondent. While granting a decree of divorce the Family Court has directed that the petitioner would be entitled to adjust the entire maintenance from 26.4.2010 till the date of the judgment i.e. 7.4.2015 at the rate of Rs.4,000/-, per month, plus Rs.7,000/-, as litigation expenses. The Family Court has also directed that the remaining amount after such adjustment is allowed to be retained by the respondent as part of the permanent alimony. In addition to the above, the respondent has further been awarded Rs.3.00 lakhs, as balance permanent alimony.
4. Learned counsel for the appellant submits that the appellant has already paid a sum of Rs.5.00 lakhs to the respondent before the Crime Against Women Cell where the parties had entered into an amicable settlement but the respondent thereafter did not comply with the terms of settlement and in fact retained the sum of Rs.5.00 lakhs with her. Counsel further submits that the Family Court should not have levied an extra burden on the respondent to pay another sum of Rs.2.53 lakhs to the respondent.
5. Learned counsel for the respondent submits that in fact the amount fixed by the Family Court is on the lower side and the Family Court has failed to take into consideration that the respondent has not only to support herself but also her minor daughter. Counsel further submits that the respondent would be filing an appeal for enhancement of the amount awarded to the respondent.
6. We have heard learned counsel for the parties, considered their rival submissions and also perused the impugned judgment passed by the Family Court. The only ground urged before us is that the Family Court has exceeded its jurisdiction by allowing the respondent herein to adjust

the entire maintenance from 26.4.2010 till the date of judgment (7.4.2015) at the rate of Rs.4,000/-, per month, plus Rs.7,000/- as litigation expenses and allowing the respondent to adjust the remaining amount as part of permanent alimony and also awarding Rs.3.00 lakhs as balance permanent alimony.

7. A perusal of the impugned order shows that the income of the appellant herein has been assessed as Rs.23,000/-, per month. Upon adjustment the difference amounts to approximately Rs.2.53 lakhs.
8. Taking into consideration the fact that the respondent is not working, she has to bring up a girl child, who is a minor, and having regard to the fact that the amount fixed by the trial court, which is in our view is not on the higher side, and keeping in view the facts as stated in the judgment, we find no grounds to interfere in the impugned judgment dated 4.4.2015 passed by the Family Court. Accordingly, the present appeal and the application for condonation of delay (CM APPL. 13825/2015) are dismissed.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 14, 2015

msr