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

+ **MAT.APP.(F.C.) 149/2015**

% ***Judgment dated 14th December, 2015***

NAWAB ALI

..... Appellant

Through : Mr.Shankar Kumar Jha, Adv.

versus

RUKHSANA & ORS

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

CM APPL. 30728/2015

1. This is an application filed by appellant seeking condonation of 12 days' delay in filing the present appeal.
2. Heard. For the reasons stated in the application and in the interest of justice, present application is allowed. Delay in filing the present appeal is condoned. Let appeal be taken on record.
3. Application stands disposed of.

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4. Challenge in this appeal is to the order dated 20.7.2015 passed by Family Courts in Maintenance Petition No.M-248/12 by which the Family Court has awarded maintenance to the respondents, being the wife and two children, at the rate of Rs.6,000/-, per month (Rs.2,000/-, each).
5. Learned counsel for the appellant submits that the Family Court has failed to take into consideration that the appellant is 100% visually impaired, he

has no source of livelihood and the Family Court has only decided the matter while taking into consideration that the appellant was once employed as a carpenter in Saudi Arabia and he has earned more than Rs.60.00 lakhs. Counsel further submits that the earnings of Rs.60.00 lakhs are not available with the appellant. It is further submitted that the Family Court has misdirected itself by holding that the appellant is carrying on the business of selling precious stones and he is a numerologist.

6. We have heard learned counsel for the appellant. We may note that the respondent has already filed an appeal assailing the order dated 20.7.2015 passed by the Family Court on the ground that the maintenance awarded to her is insufficient and it is virtually impossible for her to bring up two minor children and maintain herself.
7. We may also take into account that it has been noticed by the Courts that tendency of the spouses in proceedings for maintenance is not to truthfully disclose their true income. However, in such cases some guess work on the part of Court is permissible. [*See Jasbir Kaur Sehgal (Smt.) v. District Judge, Dehradun & Others*, reported at (1997) 7 Supreme Court Cases 7].
8. We may also note that the appellant, who claims to be 100% visually impaired and has no source of livelihood, has recently remarried. We find it highly improbable that a father would marry his daughter to such a person, who is 100% visually impaired and has no source of livelihood.
9. As far as the contention raised by counsel for the appellant that the second wife of the appellant wishes to serve the appellant is somehow does not seem convincing keeping in view today's day and age. Resultantly, we find no infirmity in the order passed by the trial court and the present appeal stands dismissed. However, it is made clear that the order passed

today will not come in the way of the parties when the appeal filed by the wife is argued.

10. appellant to argue and raise all objections available to him in accordance with law at the time of hearing in the appeal filed by the wife.

CM APPL. 30729/2015.

11. Application stands dismissed in view of the order passed in the appeal.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

DECEMBER 14, 2015

msr