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

+ MAT.APP.(F.C.) 32/2015

MEENU SAINI @ MEENA

..... Appellant

Represented by: Mr.Abhishek Kumar, Advocate

versus

MAYANK SAINI @ TONI

..... Respondent

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **19.09.2016**

CM No.5591/2015

For the reasons stated in the application delay of 59 days in filing the appeal is condoned.

The application is disposed of.

Mat.App.(F.C.) No.32/2015

1. On perusing the impugned order dated November 28, 2014 we find that the learned Judge Family Court has not exercised jurisdiction properly. Without calling upon the respondent to file an affidavit giving particulars of his business, on the bald statement made that from the shop where he was carrying on business the respondent was earning not a penny, holding that as an able bodied person the respondent would be earning minimum wage for an unskilled worker at ₹8,086/- per month, maintenance granted to the petitioner is ₹2,000/- per month.

2. The learned Judge Family Court has not considered the social status

of the parties when they got married. The learned Judge has not applied commonsense, in that, has not considered that the respondent has a shop in a premises owned by his mother and it is just not possible that he earns nothing. The case of the respondent is that his income from the shop is Nil.

3. It is apparent that the respondent is hiding his true income. It was the duty of the learned Judge Family Court to have called upon the respondent to produce his bill books and books of account including stock registers to find out the volume of business conducted.

4. Under the circumstances we dispose of the appeal directing the learned Judge Family Court to re-decide appellant's application for maintenance filed under Section 24 of the Hindu Marriage Act, 1955 while maintaining the direction that the respondent shall pay to the petitioner as a pro-tem interim maintenance ₹2,000/- per month till the application is decided afresh.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

SEPTEMBER 19, 2016

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