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

+ MAT.APP.(F.C.) 59/2016 & CM Nos.14738-39/2016

ABHISHEK MISHRA Appellant
Through : Mr. Brajesh Kumar and Mr.
A.P. Sinha, Advs.

versus

NUPUR MISHRA Respondent
Through : None.

CORAM:
HON'BLE MS. JUSTICE GITA MITTAL
HON'BLE MR. JUSTICE I.S.MEHTA

ORDER
% **26.04.2016**

CM No.14738/2016

Allowed, subject to just exceptions.

The application is disposed of.

MAT.APP.(F.C.) 59/2016 & CM No.14739/2016

1. The appellant challenges the order dated 5th of March 2016 (page 18A) whereby the Family Court has directed attachment of the salary of the appellant for satisfaction of the amount ordered to be paid by the order dated 21st July, 2015 on the application under Section 24 of the Hindu Marriage Act. One of the grounds of challenge is that the respondent has throughout been employed

which factor she concealed from the Family Court in the application under Section 24 of the Hindu Marriage Act and thereafter.

2. Mr. Brajesh Kumar, learned counsel for the appellant submits that on account of a bonafide error, his divorce petition came to be dismissed in default on 6th of January 2016. An application for its restoration has been filed which is still pending. In these circumstances, the appellant was unable to seek modification of the order dated 21st July, 2015 before the Family Court in terms of the liberty given by the Family Judge by the impugned order dated 5th March, 2016.

3. In view of the above, it is directed as follows :

(i) Liberty is given to the appellant to make an appropriate application before the Family Court in HMA No.777/2014 for modification of the order dated 21st July, 2015 or for any other relief.

(ii) Subject to the appellant depositing an amount of ₹50,000/- before the Family Court in HMA No.777/2014 within two weeks and moving the application for modification of the order dated 21st July, 2015 within a period of two weeks from today, there shall be a stay of the effect and operation of the order of attachment of the salary of the appellant in terms of the order dated 5th March, 2016 for a period of four weeks from today.

(iii) It shall be open for the Family Court to consider the application and pass appropriate orders including interim orders, in accordance with law and uninfluenced by the orders passed by this court, on the application moved by the appellant with regard to the direction to pay maintenance which orders shall bind further consideration.

This appeal and application are disposed of in the above terms.

Dasti.

GITA MITTAL, J

I.S.MEHTA, J

APRIL 26, 2016

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