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

+ **MAT.APP.(F.C.) 94/2016**

ANEESH GUPTA

..... Appellant

Represented by: Ms.Rekha Palli, Sr.Advocate
instructed by Mr.Pardeep Kumar,
Ms.Garima Sachdeva and
Mr.S.A.Akhtar, Advocates

versus

DEEPIKA GUPTA

..... Respondent

Represented by: Mr.Sunil Mittal, Sr.Advocate
instructed by Ms.Seema Seth,
Advocate

MAT.APP.(F.C.) 132/2016

DEEPIKA GUPTA

..... Appellant

Represented by: Mr.Sunil Mittal, Sr.Advocate
instructed by Ms.Seema Seth,
Advocate

versus

ANEESH GUPTA

..... Respondent

Represented by: Ms.Rekha Palli, Sr.Advocate
instructed by Mr.Pardeep Kumar,
Ms.Garima Sachdeva and
Mr.S.A.Akhtar, Advocates

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **23.11.2016**

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1. Having heard learned counsel for the parties, the two appeals are being disposed of with consent, setting aside the impugned order dated May 05, 2016; which has been challenged by both parties. The reason being that the order is extremely cryptic and does not even evince the minimum application of mind which is required when an application filed under Section 24 of the Hindu Marriage Act, 1955 is decided.
 2. Notwithstanding proceedings under Section 24 of the Hindu Marriage Act, 1955 being summary in nature, but the order passed must record the rival view points concerning the income of the two spouses, and reach conclusions with reasons.
 3. Regretfully, the impugned order does not do so. With reference to the pay slip, income tax returns and affidavit filed by the husband, the learned Judge has not recorded with clarity as to what is the tentative annual income (net income) treated by the Court for purpose of deciding the application filed by the wife.
 4. Similarly we find that the contentions of the husband relating to the bank account of the wife in which payments made by her have been debited, and payments received by her have been credited have not been dealt with and no attempt has been made to find out whether the claim of the wife that she is not having any income other than interest income is correct.
 5. Grievance of the husband is that till the year 2013 the wife was earning working as an employee with the American Express Bank. Though she claims not to be earning, the statements of bank accounts would prove to the contrary.
 6. We do not comment upon the rival view points. The purpose of
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highlighting as above is to bring home the point that the impugned order is extremely cryptic.

7. It is a case where the statements of the parties on oath were required for purposes of clarification. The learned Judge Family Court has not done so.

8. This is the reason for the consent to emerge. The two appeals are accordingly disposed of passing the following consent directions:-

(i) Order dated May 05, 2016 disposing of the wife's application under Section 24 of the Hindu Marriage Act, 1955 is set aside and the application for maintenance is restored for adjudication afresh.

(ii) Within six weeks from date of receipt of this order the learned Judge Family Court Dwarka shall decide the application afresh after recording the statements of the parties on such aspect of their affidavits, income tax returns and bank statements which would be necessary for purpose of throwing light thereon.

(iii) For the month of December, 2016 and January, 2017, without prejudice to the stand of the parties, the husband shall pay to the wife ₹60,000/- per month. This amount would be subject to such orders which may be passed by the learned Judge Family Court while deciding the application under Section 24 of the Hindu Marriage Act, 1955.

9. Though it would be expected that the learned Judge Family Court re-decides the application filed by the wife under Section 24 of the Hindu Marriage Act, 1955 by 31st January, 2017, if for some reason the same cannot be decided within said time it would be decided positively by the end of February, 2017 and in such eventuality the husband would pay to the wife

₹60,000/- for the month of February as well. Needless to state this would also be subject to the same adjustment as has been agreed by the parties for the months of December, 2016 and January, 2017.

10. Copy of this order be supplied dasti today itself under signatures of the Courts Master to learned counsel for the parties who shall jointly file an application before the learned Judge Family Court latest by November 29, 2016.

11. Mr.Pradeep Kumar, Advocate for the husband and Ms.Seema Seth, Advocate for the wife are charged with the obligation by the Court to ensure that the joint application to be filed before the learned Judge Family Court is drafted jointly by the two counsel latest by November 24, 2016 and after obtaining signatures of their clients along with affidavits in support thereof the same is filed on November 29, 2016.

12. Needless to state we have not expressed our opinion on the merits of the controversy and the learned Judge Family Court Dwarka shall decide the matter uninfluenced by the consent given by the parties and the observations made in the present order.

13. No costs.

CM No.25127/2016 in Mat.A.(F.C.) No.94/2016

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

YOGESH KHANNA, J.

NOVEMBER 23, 2016/mamta

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