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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAT.APP.(F.C.) 103/2016 & CM No. 27549/2016**
CHHAYA GUPTA Appellant

Through: Mr. S.K. Luthra, Advocate along with
Ms. Babita Seth and Mr. Vikrant
Bhardwaj, Advocates.

versus

MANOJ GUPTA Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
% **03.08.2016**

The appellant is aggrieved by an order of the family court by which the respondent/husband has been directed to pay maintenance at ` 5,000/- per month to her.

It is contended on behalf of the appellant that the husband is prima facie possessed of more means than what the family court assessed. Learned counsel relied upon the averments in the application under Section 24 as well as the assertions of the respondent- especially to the effect that he carries on agricultural operations in District Sewan, Bihar.

We note that the respondent/husband was proceeded against ex-parte at least in respect of the *pendente lite* maintenance application

proceedings. Even though, the appellant asserted the husband earned more than ` 1 lakh a month, there was no material to substantiate such assertion. Taking a broad view of the matter, the Court assessed the income of the respondent at the minimum wage level of an unskilled worker and on the basis of such inference directed payment of Rs. 5,000/- to the appellant. We do not see any infirmity calling for interference. At the same time, we clarify that in the event the appellant is able to produce any material to show that the income levels of the respondent were more than ` 1 lakh or were more than the minimum wages on the basis of which the impugned order was made, it is open to her to seek variation of the order and higher *pendente lite* maintenance depending on the fresh developments.

The learned counsel seeks liberty to withdraw the appeal but in terms of the above observations.

Liberty granted.

The appeal is dismissed as withdrawn.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

AUGUST 03, 2016

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