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

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Date of Decision: August 30, 2016

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MAT.APP.(F.C.) 2/2014

SHOBHANA SRIVASTAVA

..... Appellant

Represented by: Mr.Surendra, Advocate.

versus

MANOJ MENON

..... Respondent

Represented by: Ms.Sucharita Ghosh, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRATIBHA RANI, J. (Oral)

CM No.31635/2016 (recalling of order dated May 12, 2016)

1. Vide order dated May 12, 2016 the appellant/wife was directed to collect her belongings from the rented accommodation which is lying locked.
2. By filing the instant application, prayer for recalling the order dated May 12, 2016 has been made on the ground that the articles lying there are not in the condition worth taking them back. The appellant/wife does not want to take back the articles in view of their present condition/status.
3. Since the appellant/wife does not want to comply with the said order by taking her articles back, this appeal being limited to the order awarding maintenance, the parties are at liberty to resolve this issue before the concerned Family Court.
4. The application is dismissed.

1. Aggrieved by the order dated October 28, 2013 passed by learned Judge, Family Court awarding ₹20,000/- per month towards interim maintenance and ₹10,000/- towards litigation expenses, the appellant/wife has preferred this appeal seeking enhancement of interim maintenance from ₹20,000/- to ₹80,000/- per month.

2. The appellant/wife filed an application under Section 24 of Hindu Marriage Act, 1955 seeking interim maintenance @ ₹80,000/- per month plus ₹55,000/- towards litigation expenses alleging the following facts regarding status and financial capacity of the respondent/husband:-

(i) The respondent/husband is working with M/s Celfrost Innovations Pvt. Ltd. as G.M. (Service) and his last drawn salary was ₹93,307/- per month.

(ii) He also had rental income of ₹9000/- per month and interest on bank deposits to be ₹4,000/- per month.

(iii) The respondent/husband also enjoys perks from the company and apart from bank balance he owns various properties.

3. The learned Judge, Family Court after calculating the details of the expenses incurred by the respondent/husband every month and recording his plea that because of the complaints made by the appellant/wife in his office, he was made to quit the job and unable to get another job, observed that the respondent/husband was not coming out with the true facts. The reason given by the learned Judge, Family Court is that a person who is earning ₹13,000/- per month (₹9000/- per month as rental income plus ₹4000/- per month as income from interest on bank deposits) would not be able to spend ₹50,000 to ₹60,000/- per month without any additional income. Thus, the learned Judge, Family formed an opinion that respondent/husband has some

undisclosed source of income and that he must be working somewhere and drawing a salary which was his last drawn salary i.e. ₹93,000/- per month.

4. Presuming the monthly income of the respondent/husband to be ₹1 lac per month, the learned Judge, Family Court awarded ₹20,000/- per month towards interim maintenance and ₹10,000/- towards litigation expenses.

5. The appellant/wife being not satisfied with the interim maintenance awarded has knocked the door of this Court for seeking enhancement of interim maintenance to the extent of ₹80,000/- per month plus more amount towards litigation expenses.

6. The impugned order records that the appellant/wife is M.A., B.Ed. and has got work experience of more than 18 years. She represents herself to be Education Management Professional. She is also earning from home tuitions. In the impugned order the learned Judge, Family Court failed to take into account the above aspects as well the fact that the basic foundation to seek maintenance @ ₹80,000/- per month was because of employment of respondent/husband with M/s Celfrost Innovations Pvt. Ltd. as G.M. (Service) where his last drawn salary was ₹93,307/- per month. The fact of he being not in employment at the time when impugned order was passed has not been dealt with by the learned Judge, Family Court.

7. With increasing demands of teachers everywhere including for home tuitions and the teachers charging on hourly basis, it cannot be said that the appellant/wife is not capable of sustaining herself on the basis of her comparatively higher qualification.

8. A well qualified spouse, here in this case wife, desirous of remaining idle cannot be permitted to survive on the maintenance to be provided by the other spouse. This is not the purpose behind Section 24 of Hindu Marriage Act, 1955. The purpose of awarding interim maintenance to a spouse in

matrimonial proceedings is to enable the spouse to maintain herself/himself and also to have sufficient means to carry on the litigation. The object of Section 24 is not intended to bring arithmetical equality in their financial status and means.

9. The respondent/husband is not in appeal before us. If he had quit the job, due to the reason attributable to the appellant/wife i.e. making complaints against him to the extent that the company had to bid farewell to him, did not give rise to any presumption that he must be earning equivalent amount even thereafter.

10. We do not find any merit in the appeal. Accordingly, the appeal is dismissed but without any order as to costs.

CM No.7199/2014

Dismissed as infructuous.

**PRATIBHA RANI
(JUDGE)**

**PRADEEP NANDRAJOG
(JUDGE)**

AUGUST 30, 2016
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