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

% *Date of Decision: September 29, 2016*

+ **MAT.APP.(F.C.) 63/2015**

MS BINDU CHAUDHARY Appellant

Represented by: Mr.P.Acharya, Advocate

versus

SHRI DEEPAK SUGA Respondent

Represented by: Ms.Shikha Sapra, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRATIBHA RANI, J. (Oral)

C.M. No. 9083/2015

1. For the reasons stated in the application, 135 days delay in filing the appeal is condoned.

2. The application is disposed of.

MAT.APP.(F.C.) 63/2015

1. The appellant/wife is in appeal seeking enhancement of maintenance, awarded vide order dated November 19, 2014, by the learned Judge, Family Court. While disposing of the application under Section 24 of the Hindu Marriage Act, 1955, filed by her in HMA No.200/2014, she has been granted maintenance of ₹5,000 per month in addition to ₹2,000 per Court visit towards her expenses for visit and ₹500 as DA per Court visit.

2. The respondent/husband filed a petition in the year 2013 seeking dissolution of marriage under Section 13(1)(ia) of the Hindu Marriage Act, 1955. On notice of the divorce petition being received, the appellant/wife filed an application under Section 24 of the Hindu Marriage Act, 1955 seeking pendent lite maintenance of ₹1 lac per month in addition to ₹15,000 per month towards travelling expenses for attending the Court proceedings

from Solan, Himachal Pradesh to Delhi and ₹5,000/- per day during that time towards her lodging and boarding expenses in Delhi.

3. The respondent/husband contested her claim to seek maintenance as the wife was a qualified Ayurvedic doctor earning ₹50,000 per month in addition to income from interest on FDR of ₹6 lacs in MIP scheme as well interest from her bank deposits.

4. As per the respondent/husband, he is a graduate, employed in Dubai as shop Supervisor, earning AED 3,000. He has also obtained LIC policy for 20 years. He had also taken a loan of AED 9,000 which he is re-paying in 18 EMIs of AED 500 each. As his mother is suffering from brain tumor and bed ridden he had been visiting India to see her and thereby required to spend on his travel.

5. After considering the rival contentions of the parties and their respective status, learned Judge, Family Court, while observing that both the parties are well qualified and have capacity to earn, allowed the application under Section 24 of the Hindu Marriage Act, 1955 awarding ₹5000 per month towards maintenance. She was also allowed Volvo fare of every visit to Delhi to attend the Court proceedings and ₹500 per Court visit towards her personal expenses.

6. The appellant/wife being not satisfied is seeking enhancement mainly on the ground that the respondent/husband is working in Dubai and having no other liability except to maintain her.

7. If a person is working in Dubai, he earns in the currency of that country and spends also in that currency. So it is not open to the wife to just convert his income in Indian currency and then seek enhancement. The Court has to consider the cost of living as per the living standards in country where he is employed.

8. Bare perusal of provision of Section 24 of the Hindu Marriage Act, 1955 would show that for grant of maintenance pendent lite the party should

not have sufficient independent income for her support. In the instance case admittedly the appellant/wife is a practicing Ayurvedic doctor and her financial status can be inferred from her bank deposits.

9. The respondent/husband is duty bound to attend to his ailing mother and visit India as and when required and take care of other expenses required for her treatment.

10. The appellant/wife has already been awarded suitable maintenance despite the fact that she is well qualified doctor and had earlier been working as Consultant in Jiva Ayurveda Hospital, but preferred not to place on record the terms and conditions of consultancy and what she was getting as a consultant doctor during that time or at the time of filing of this application. Apart from awarding reasonable maintenance as per income and liability of the respondent/husband, the expenses incurred/likely to be incurred for coming to Delhi to attend the Court proceedings have also been taken care of.

11. The impugned order being passed after taking into consideration the aspects regarding earning capacity of the parties, the actual earning of the husband who though working in Dubai has to spend more as the cost of living is high there.

12. The appeal has no merits and the same is hereby dismissed.

C.M. Nos. 13095/2016, 18604-05/16

All the three applications are dismissed as not pressed.

**PRATIBHA RANI
(JUDGE)**

**PRADEEP NANDRAJOG
(JUDGE)**

SEPTEMBER 29, 2016
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