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

+ MAT.APP.(F.C.) 160/2016

GULSHAN PAHUJA

..... Appellant

Represented by: Mr.Sanjeev Sahay, Advocate.

versus

ASHA PAHUJA

..... Respondent

Represented by: None.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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03.11.2016

CM No.40755/2016

Allowed subject to all just exceptions.

CM No.40756/2016

1. For the reasons stated in the application 133 days' delay in filing the appeal is condoned.
2. Application is disposed of.

MAT.APP.(F.C.) 160/2016

1. Impugned order is the consequence of the learned Judge, Family Court holding that the appellant is in default of paying monthly interim maintenance awarded to the wife vide order dated May 30, 2013 under Section 24 of Hindu Marriage Act, 1955.
2. The appeal is replete with grounds concerning the income of the wife. Meaningfully read the ground is that the wife is not entitled to the maintenance.

3. We are afraid, this issue cannot be urged to challenge the impugned order dated February 10, 2016 inasmuch as the order dated May 30, 2013 passed by the learned Judge, Family Court under Section 24 of Hindu Marriage Act, 1955 has attained finality.
4. Learned counsel for the appellant urges that after the order dated May 30, 2013 was passed circumstances have changed. If this be so, the appellant's remedy was to move an application before the learned Judge, Family Court pleading the changed facts which the appellant claims as having impacted the maintenance awarded to the wife.
5. Learned counsel for the appellant states that the appellant would move such application and thus prays for leave of this Court to withdraw the instant appeal.
6. The appeal is accordingly dismissed as withdrawn observing that if the appellant was to file an application concerning the order dated May 30, 2013 bringing to the notice of the learned Judge, Family Court change in circumstances after the order was passed, the same shall be decided by the learned Judge, Family Court as per law.
7. No costs.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

NOVEMBER 03, 2016

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