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

+ **MAT.APP.(F.C.) 166/2016**

VIKAS SHANDILYA

..... Appellant

Represented by: Mr.Yudhvir Singh, Adv.

versus

RENUKA SOLANKI

..... Respondent

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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11.11.2016

CM No.41844/2016

For the reasons mentioned in the application, 18 days delay in filing the appeal is condoned.

Application is allowed.

MAT.APP.(F.C.) 166/2016

1. The appellant challenges the order dated August 20, 2016 disposing of respondent's application filed under Section 24 of the Hindu Marriage Act, 1955, awarding maintenance to the respondent in a sum of ₹40,000/- per month from the date when the application was filed till disposal of the HMA bearing No.398/2015 filed by the appellant. ₹33,000/- has also been directed to be paid towards litigation expenses.

2. The impugned order proceeds to grant maintenance to the wife noting that working as a Technical Co-ordinator with Omnia Nigeria Limited

Lagos, in Nigeria, the appellant is paid by the employer US\$ 1500 plus US\$ 1000; the former under the head '*Overseas*' and the latter under the head '*Local*'. Free furnished, residential accommodation, a chauffeur driven car and medical benefits are provided by the company by way of perks. Meaning thereby, the appellant has not to bear any expenses from his emoluments towards maintaining a residence, for his conveyance and medical ailments, if any.

3. Applying the conversion rate of a US\$ fetching ₹67 the monthly salary has been worked out at ₹1,67,000/-. Maintenance awarded to the wife is a little less than 25% thereof.

4. From the facts noted above, it is apparent that the appellant does not have to pay for his residence nor for his transport nor for a medical contingency. Meaning thereby the appellant has to bear his personal expenditure only.

5. The wife has to pay rent, transport and maintain herself.

6. The impugned order has noted that the appellant provides some finances to his ailing father and his physically challenged brother-in-law who is married.

7. Three-fourth of the net emoluments received by the appellant being left with him and one-fourth awarded to the wife would not warrant any interference by this Court keeping in view that the appellant has a rent free furnished accommodation, is provided with a chauffeur driven car by the company. His medical expenses are borne by the company. Assuming he pays 50% of his net emoluments i.e ₹84,000/- per month to his father for father's maintenance and the maintenance of a physically challenged brother and his wife, 25% would be sufficient for the appellant for his personal

expenditure. 25% to the wife for her personal expenditure, transport and residence would suffice.

8. The only argument advanced is that for chronic ailments the company does not provide any medical benefit and the medical benefit provided by the company is for unforeseen medical problems and therefore allowance has to be made in favour of the appellant for incurring medical expenditure. This argument has no basis for the reason in the reply filed to the application filed by the respondent under Section 24 of the Hindu Marriage Act, 1955 it has not been pleaded that the medical benefit policy of the company excludes chronic ailments. What chronic ailment ails the appellant has not been pleaded. It has not been pleaded that a particular sum is being recurring incurred by the appellant. It is trite that no argument on a matter of fact can be advanced in appeal unless its foundation is laid in the pleadings.

9. The appeal is dismissed in limine without any order as to costs.

PRADEEP NANDRAJOG, J

YOGESH KHANNA, J

NOVEMBER 11, 2016
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