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IN THE HIGH COURT OF DELHI AT NEW DELHI

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MAT.APP.(F.C.) 111/2015 & CM No.16608/2015

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Date of decision : 8th February, 2016

SANDEEP GARG

..... Appellant

Through: Ms. Jhum Jhum Sarkar, Adv.

versus

MONIKA GARG

..... Respondent

Through: None

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MR. JUSTICE I.S.MEHTA

JUDGMENT (ORAL)

GITA MITTAL, J

1. By the instant appeal, the appellant has assailed the order dated 5th August, 2011 whereby the Family Court accepted the application of the respondent-wife under Section 24 of the Hindu Marriage Act, 1955 awarding monthly maintenance of Rs.25,000/- to the respondent-wife and her daughter. The appellant also assails the order dated 1st April, 2015 whereby the Family Court has rejected the review application dated 21st March, 2012 filed by the husband seeking review of the order dated 5th August, 2011.

2. The order dated 5th August, 2011 has inter alia concluded that the petitioner-husband was cohabiting with his family and the family had well established business with two big show rooms at Kundli under the name and style of M/s Balaji Hardware and

Millstore as well as M/s Aggarwal Electronics. The learned Family Court Judge has accepted the respondent's assertion that with the intent to avoid payment of maintenance, though the appellant-husband was running the business of M/s Balaji Hardware as a sole proprietor, he has surreptitiously got the proprietorship firm converted into a partnership firm with his brother in the Sales Tax Department. The learned Judge has also accepted that the business is well established and has relied on the documentary evidence that the annual income of the firm for the year 2010-2011 was approximately Rs.2.4 crores. The order dated 5th August, 2011 has also considered the allotment letter dated 13th November, 2006 issued by the Haryana Urban Development Authority re-allotting Plot No. 727, Sector-7, Sonipat, Gohana, Haryana in favour of the husband. Apart from the other facts and circumstances, this documentary evidence has persuaded the court to reject the appellant's claim that he was working at a monthly salary of Rs.15,000/- under his brother in the firm of which he himself had been the sole proprietor.

3. The review order dated 1st April, 2015 notes that despite repeated directions, the appellant-husband did not file the affidavit of income, assets and liabilities though the respondent had filed the same. Last opportunity to do so was granted on 29th July, 2013. We may note that though the statutory period of limitation for filing a review is only 30 days, the appellant sought review of the order dated 15th August, 2011 by a petition filed on 21st March, 2012 obviously to avoid payment of the maintenance granted.

4. The record of the instant case also reflects a blatant attempt of the appellant to avoid payment of maintenance to the respondent-wife and the daughter of the parties who are completely without any resources.

5. On 21st December, 2015, this court had prima facie noted that there was no infirmity in the order passed by the Family Court. The appellant is unable to assail the findings in the impugned orders or to persuade us also to hold to the contrary.

We find no merit in this appeal which is hereby dismissed.

The appellant shall ensure strict compliance with the orders passed by the Family Court.

CM No.16608/2015

In view of the orders in the appeal, this application does not survive for adjudication and is disposed of as such.

GITA MITTAL, J

I.S.MEHTA, J

FEBRUARY 08, 2016

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