

\$~9

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

+ **MAT.APP.(F.C.) 170/2016**

ANIL KISHAN

..... Appellant

Represented by: Appellant in person

versus

SHASHI GOGIA @ SMRIDHI HANDA

..... Respondent

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **22.11.2016**

CM No.43039/2016

Allowed subject to just exceptions.

CM No.43038/2016

For the reasons stated in the application delay of 49 days in filing the appeal is condoned.

The application is disposed of.

Mat.A.(F.C.) No.170/2016

1. Vide impugned order dated May 24, 2016, ₹3,000/- per month has been awarded to the respondent by way of maintenance with effect from the date she filed the application under Section 24 of the Hindu Marriage Act, 1955. Litigation expense in sum of ₹11,000/- has also been awarded.
2. Neither the respondent could throw any light on appellant's income nor could the appellant throw any light on the respondent's income.

3. As per the respondent, the appellant with his parents and brother were residing in the family owned house bearing No.B-153, Sector 15, Noida; a fact denied by the appellant. As per the respondent the appellant and his family were in business of sale of industrial machines earning approximately ₹50,000/- per month. The appellant denied the same. The respondent could not establish her assertion.
4. Similarly the appellant could not make good the assertion that by providing tuitions and assisting her father in business the respondent was earning ₹30,000/- per month.
5. The appellant claimed to be a daily wager performing loading and unloading of machines.
6. The learned Judge Family Court has held that being an able bodied person the appellant would be expected to at least earn the minimum wages and which translate to ₹9,000/- per month. On this reasoning respondent has been awarded maintenance in sum of ₹3,000/- per month.
7. In the memo of parties residential address disclosed by the appellant is B-153, Sector 15, Noida.
8. We take judicial notice of the fact that Sector 15 Noida abuts the city of Delhi and is considered to be the most prime sector in Noida.
9. The appellant who appears in person when questioned, states that the plot ad-measures 115 square yards and belongs to his family.
10. It is not possible to accept that the appellant is a daily wager. He lives with his parents and his brother in a two-storeyed house in Sector 15, Noida. Under the circumstances the grievance against the impugned order, if at all, has to be that of the respondent.
11. We terminate the discussion by noting that as per the appellant his

wife's father carries on business of selling garments in Nai Sarak, Chandani Chowk; and surely a family of said social and economic standing would not marry a daughter to a daily wage labourer.

12. The appeal is dismissed in limine.

13. No costs.

PRADEEP NANDRAJOG, J.

YOGESH KHANNA, J.

NOVEMBER 22, 2016

mamta