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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAT.APP.(F.C.) 7/2016, CAV.946/2016 & C.M. APPL.9700/2016**
AMANPREET SANDHU Appellant

Through : Ms. Aneesha Banerjee and Ms.
Khushboo Kumari, Advocates.

versus

SHAURYA SHANDILYA Respondent
Through : Sh. N. Prabhakar, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

% **ORDER**
13.07.2016

The appellant/wife – arrayed as a respondent in the matrimonial proceeding is aggrieved by an order of the Family Court dated 12.10.2015 whereby ₹ 60,000/- was directed to be paid by the petitioner/husband per month, as *ad interim* maintenance. The Family Court, by its impugned judgment has, recorded that the disposable income (net salary) of the husband is ₹4,55,000/- per month, based upon its assessment of the materials on record, including the income tax returns etc. The impugned judgment directed the respondent to pay ₹60,000/- per month. It is contended by Ms. Aneesha Banerjee, learned counsel for the appellant that the minor child suffers from mild autism which is affecting his learning abilities. The respondent's father, who is present, confirms this and says that this condition was noticed at the time of the child's school admission this year. The

appellant contends that by reason of this development, she has in fact tendered her resignation from 28.06.2016 and is currently undergoing three months' notice period.

In the light of these circumstances, the appellant's counsel submitted that the matter may be remitted for fresh consideration by the Family Court which went by its findings *prima facie* regarding the appellant's earning capabilities. It is submitted that since these developments have an effect on the findings, the claim for maintenance would have to be re-assessed. At the same time, learned counsel for the appellant urged that the impugned judgment requires modification to the extent that the direction for maintenance should be made applicable from the date the application was moved, rather than from the date of the order itself.

We have heard learned counsel for the parties. Learned counsel for the respondent/husband has no objection in principle to the remission of these matters, i.e. application under Section 24 of the *Hindu Marriage Act* for fresh determination in the light of the latest developments. It is also contended that there is no objection if the direction to pay maintenance is revised from the date of the impugned order (12.10.2015) to the date of the application, i.e. September 2014. In the light of the above discussion, the appeal partly succeeds to the extent that the direction to pay ₹60,000/- per month shall come into force and be effective from the date the application came before the Family Court. The Family Court is directed to reconsider and assess the income earning capability of the parties, and whether the amount of ₹60,000/- is adequate in the circumstances.

All rights and contentions of the parties are reserved.

All arrears of maintenance, i.e. the amounts payable on account of the current directions as well as previous arrears, if any, shall be cleared by the respondent within three months. The outstanding arrears, if any, on account of the impugned order dated 12.10.2015 shall be cleared within two weeks. The arrears payable on account of modification of said order shall be cleared within three months. The appeal is disposed of in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

JULY 13, 2016
‘ajk’