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

% *Date of Decision: September 02, 2016*

+ **MAT.APP.(F.C.) 11/2016**

RITA KHANEJA

..... Appellant

Represented by: Mr.Naveen Kumar Raheja,
Advocate.

versus

RAJESH KHANEJA

..... Respondent

Represented by: None.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRATIBHA RANI, J. (Oral)

CM No.2782/2016

1. For the reasons stated in the application 86 days' delay in filing the appeal is condoned.
2. Application is disposed of.

MAT.APP.(F.C.) 11/2016

1. Despite the maintenance amount being enhanced from ₹5000/- to ₹7500/- per month with the take home salary of the respondent/husband to be only ₹7433/- per month, (as per the salary slip furnishing by him) the appellant/wife is still not satisfied and approached this Court for enhancement of the maintenance amount to ₹25,000/- per month.
2. The learned Judge, Family Court has also made provisions for the future increase in this very order by recording that every third year there shall be an increase of ₹500/- per month in the maintenance amount awarded to her.
3. Admitted case of the parties is that their marriage was solemnised on September 30, 1998 as per Hindu rites and customs. No child was born out

of this wedlock.

4. For the purpose of disposal of this appeal, suffice it to note that on June 03, 2005 the respondent/husband filed a petition seeking dissolution of marriage under Section 13(1)(ia) of Hindu Marriage Act, 1955. The appellant/wife filed an application under Section 24 of Hindu Marriage Act, 1955 which was disposed of by the learned ADJ on November 30, 2008 awarding ₹5,000/- per month as maintenance to the appellant/wife and litigation expenses of ₹10,000/-. For the last more than eleven years the divorce petition is pending before the learned Judge, Family Court. It appears that there is no possibility of same being disposed of in near future and that may be the reasons provision has been made by the learned Judge, Family Court for periodical increase in the maintenance amount instead of concentrating on expeditious disposal of the divorce petition.

5. The appellant/wife is claiming the income of her husband to ₹55,000/- which fact cannot be established from any material on record.

6. Section 24 of the Hindu Marriage Act contemplates a summary inquiry and not a trial at length. A bare reading of the Section 24 of the Hindu Marriage Act, 1955 makes the object and the intent of the Section clear. This provision has been enacted to enable the husband or the wife as the case may be, who has no independent source of income for his or her support as well to incur necessary expenses to contest the litigation, can claim maintenance *pendente lite* so that proceedings may be continued without any hardship on his/her part. The benefits granted under this Section are only temporary in nature.

7. In the impugned order, the learned Judge, Family Court has noted the income of the non-applicant i.e. the respondent/husband to be as under:

‘The present income of the non-applicant as per the salary slips for the month of October, 2014 to March, 2015 has been reflected as

₹10,665/- (after deductions of EPF, ESI and Loan as 1040/-, 187/- and 2000/- = ₹3227/-). The home take salary of the petitioner has been shown as ₹7433/-. The salary certificate is issued from Multiplex Corporation in which organization he was working when the earlier maintenance order was passed.

.....During his cross-examination the non-applicant admitted that even while working with the employer he had been skipping the office for teaching purposes and earning therefrom. It indicates that non-applicant has the capacity to earn through tuitions in the extra time available with him. His income is therefrom computed as not less than ₹15,000/- pm and therefore the applicant is entitled to ₹7500/- pm with the date of the application till pendente lite and for the future maintenance, the applicant is held entitled to an increase of ₹500/- pm after every third year which means that her maintenance in September, 2018 would be ₹8000/- and September 2021 the same would be ₹8500/- and so on.'

8. It is not a case where the respondent/husband is running some business and concealing his true income. The deductions made from his salary on account of EPF, ESI are compulsory in nature. ₹2000/- per month is being deducted on account of loan which he might have availed to meet his liabilities. With gross salary ₹10,665/- and carry home salary of ₹7433/- per month only, on what basis the learned Judge, Family Court has assumed his income to be not less than ₹15,000/- per month is not discussed in the impugned order. What we can see is that with the carry home salary of ₹7433/- per month, the respondent/husband has been made to pay ₹7500/- per month to his wife leaving him on the verge of vagrancy. The husband is not in appeal before us. So we leave it here.

9. It is a case where the appellant/wife though claiming herself to be indigent in this appeal has nowhere mentioned her own qualification, capacity to earn and what she had been doing for all these years after living separately from her husband though during the course of arguments before

us she claimed that she has accessed Internet to inquire about the status of her husband in the company and that he is the main contact person in the company.

10. When the genuineness of the salary slip is not disputed, information obtained through Internet by appellant/wife cannot be made basis for assessing the income of her husband.

11. The respondent/husband who approached the Family Court to avail the legal remedy under Section 13(1)(ia) of Hindu Marriage Act, 1955 has been facing this litigation for the last eleven years with no hope of getting speedy disposal of the divorce petition. Rather the observation made by the learned Judge, Family Court in the impugned order that for the future maintenance, the appellant/wife is held entitled to an increase of ₹500/- per month after every third year i.e. her maintenance in September, 2018 would be ₹8000/- and September, 2021 the same would be ₹8500/- and so on, leaves an impression in the mind of reader that disposal of the divorce petition is still a far cry.

12. Matrimonial Courts should dispose of matrimonial petition as early as possible.

13. The appeal is dismissed with direction to the learned Judge, Family Court to expedite the disposal of the divorce petition preferably within six months.

14. No costs.

PRATIBHA RANI
(JUDGE)

PRADEEP NANDRAJOG
(JUDGE)

SEPTEMBER 02, 2016/ 'st'