

\$~1.

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

+ **MAT. APP (FC) 134/2017 & CM APPL. Nos. 27504-05/2017**

VIKRANT KHANNA

..... Appellant

Through: Mr. Saurabh Chauhan, Advocate with
appellant in person.

versus

NIKITA KHANNA @ NIKITA VERMA & ANR. Respondents

Through: Mr. Mandeep Singh Vinaik,
Mr. Anjali Sharma and Mr. Deepak, Advocates for
R-1 with R-1 in person.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE P.S. TEJI

ORDER

%

16.08.2017

1. The appellant/husband is aggrieved by an order dated 16.2.2017 passed by the learned Family Court disposing of an application filed by the respondent No.1/wife under Section 24 of the Hindu Marriage Act, 1955 seeking maintenance for herself and the two minor children aged about 14 and 16 years.

2. In the impugned order, the learned Family Court has observed that it is an undisputed position that the appellant/husband is taking care of the entire household expenses and paying for the education of the children as also paying pocket money to the respondent No.1/wife; that the respondent No.1/wife has independent source of income viz. salary, rent, interest etc., and she owns immovable properties. It was therefore observed that though the project for which the respondent was engaged, was terminated in

January, 2017, it can be safely presumed that she being a professionally qualified person, can work and has self sufficient means to support herself. While holding that no order granting maintenance is required to be passed qua the respondent No.1/wife, the Family Court has proceeded to direct the appellant/husband to bear the entire household expenses for the respondent No. 1/wife and the minor children, pay for the entire expenses incurred on account of education, entertainment, medical, etc., of the children and then, surprisingly, directed him to pay a sum of Rs.50,000/- per month to the respondent No.1/wife towards her personal expenses.

3. Learned counsel for the appellant rightly points out the dichotomy in the impugned order, where at one place the learned Family Court has observed that there is no order required to be passed for granting maintenance to the respondent No.1/wife and then gone on to grant her maintenance @ Rs.50,000/- per month effective from 25.8.2014. It is in this background, that the present appeal has been filed.

4. On the last date of hearing, learned counsel for the appellant/husband was directed to give a written intimation of the pendency of this appeal to Mr. M.S. Vinaik, Advocate for the respondents. Pursuant to the said order, Mr. Vinaik, Advocate is present along with the respondent No.1 in person.

5. Mr. Vinaik, counsel for the respondent No.1 submits that prior to passing of the impugned order, the appellant was paying a total sum of Rs.40,000/- per month to the respondent No.1/wife towards the household expenses, education of the minor children, entertainment, medical expenses, etc. He supports the impugned order by stating that considering the facts of the case, the Family Court has rightly awarded maintenance @ Rs.50,000/- per month to the respondent No.1/wife as her income is *ad-hoc* and

dependent on short term projects which cannot be treated as a regular income and the amounts received by her in any case are not enough to maintain her life style in a manner to which she is accustomed, particularly when the appellant/husband has a carry home salary Rs.6.50 lakhs per month, in terms of his own income affidavit.

6. It is apparent that both the parties are aggrieved that by the impugned order, as it is their stand that the correct financial position of the other side has not been noted. Even otherwise, we have noted the contradictions in the impugned order, as recorded above. In these circumstances, the impugned order cannot be sustained. Accordingly, the order dated 16.2.2017 is quashed and set aside and the application filed by the respondent No.1/wife under Section 24 of the Hindu Marriage Act, 1955 is restored for fresh adjudication, on the basis of the material available on the record.

7. The parties shall appear before the learned Family Court on 07.9.2017, for a date to be fixed for fresh arguments on the aforesaid application whereafter an order shall be passed, in accordance with law.

8. The appeal is disposed of along with pending applications.

HIMA KOHLI, J

P.S. TEJI, J

AUGUST 16, 2017

ap