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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAT.APP.(F.C.) 131/2017, CM No. 27158/2017 & CM No. 27159/2017**

ANIL KUMAR BHUTANI Appellant

Through: Mr. Yogesh Sharma, Advocate.

versus

MANYA BHUTANI Respondent

Through: None.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
01.08.2017

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1. The appellant has filed the present petition assailing an order dated 27.05.2017 passed by the learned Family Court, North West District, New Delhi allowing an application filed by the respondent/wife for enhancement of the maintenance payable to her and two minor children in her custody.
2. As per the impugned order, initially, an interim maintenance at the rate of Rs. 2,500/- per month was awarded by the learned Family Court vide order dated 05.09.2009. The said maintenance was paid to the respondent not only for sustaining herself, but also for her two minor school going children. Subsequently, vide order dated 09.04.2012, the said maintenance was enhanced to a sum of Rs. 4,500/- per month.

3. After a lapse of four years, the respondent filed an application for enhancement of the maintenance on the ground that the living expenditure has increased considerably and that the respondent is required to pay a tuition fees of Rs.2,400/- per month for her son who is studying in class 11th in the Science subject and for the younger daughter studying in 6th class. Further, the respondent had explained that there were several other household expenses that she had to incur and due to increase in the prices of almost everything, she could not manage with Rs. 4,500/- per month.

4. A reply in opposition to the captioned application was filed by the appellant/husband, stating *inter alia* that he was making a livelihood by selling milk on commission basis for which he was paid Rs. 0.90 paisa for per litre of milk sold and that he was continuing to earn the same amount over the past several years. He thus stated that there was no enhancement in his income for being called upon to pay additional amounts to the respondent and the children. The appellant, however, failed to file a copy of his passbook to reflect the amounts that he had been depositing in his saving bank account after 9.4.2012 or for that matter, the amount of commission received by him from DMS, on whose behalf he is selling milk in the market.

5. After considering the submissions made by learned counsels for the parties, the learned Family Court has directed the appellant to pay an enhanced amount of Rs. 9,000/- per month to the respondent for maintaining herself and her two children, effective from the date of the filing of the application i.e. 05.09.2016, till the pendency of the main petition.

7. The core argument of learned counsel for the appellant is that the learned Family Court did not take into consideration the fact that the respondent is working as a private teacher in a school as well as giving

tuitions and earning a handsome remuneration of around Rs. 20,000/- per month and if the said amount is considered, the respondent cannot claim any enhancement of maintenance.

6. We may note that the aforesaid submission is not backed by any documents that the appellant placed before the learned Family Court or for that matter, before us. The pleadings in the application asking for enhanced maintenance, as filed by the respondent, are not on record, but learned counsel for the appellant does not deny the fact that the appellant did not file any document to demonstrate that the respondent has been working as a private teacher in a school and giving tuitions and earning a monthly remuneration to the tune of Rs. 20,000/- per month. The Court cannot be expected to accept bald submissions based on surmises and conjectures.

7. No other plea has been raised before us to assail the impugned judgment.

8. In our opinion, the reasoning given for the decision arrived at by the learned Family Court, is unexceptionable.

9. Accordingly, the present appeal is dismissed in limine as being devoid of merit along with the pending applications.

HIMA KOHLI, J

DEEPA SHARMA, J

AUGUST 01, 2017

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