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

+ C.R.P. 189/2018

RAJA RAM

..... Petitioner

Through: Mr. Vijender Bhardwaj, Adv.

Versus

MONI JAIN

..... Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

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**10.09.2018**

**CM No.36752/2018 (for exemption)**

1. Allowed, subject to just exceptions.
2. The application is disposed of.

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3. This Revision Petition under Section 115 of the Code of Civil Procedure, 1908 (CPC) impugns the order [dated 20<sup>th</sup> July, 2018 in HMA No.756/2017 of the Court of Judge Family Court, North] directing the petitioner husband to deposit a sum of Rs.11,000/- qua litigation expenses in the bank account of the respondent wife.
4. Though the Registry of this court raised an objection as to the maintainability of the Revision Petition but the counsel for the petitioner insisted that the Revision Petition was maintainable and has also made an endorsement under his signature to the said effect.
5. Now, upon being asked as to how a revision petition lies, the counsel for the petitioner husband refers to Section 115 of the CPC but chooses to not read the proviso inserted by the amendment with effect from 1<sup>st</sup> July,

2002 of the CPC to Section 115 CPC. The counsel for the petitioner husband from a Bare Act of the CPC in his hand, also cites a judgment titled *Pushpa @ Pooja Vs. State of UP* AIR 2005 All 187, without reading the full judgment and contends that a Revision Petition lies against an order under Section 24 of the Hindu Marriage Act, 1955.

6. Though the counsel for the petitioner husband admits that after the pronouncement of the aforesaid judgment, the proceedings are governed by the Family Court Act, 1984 which came into effect in Delhi with effect from 19<sup>th</sup> November, 1986 with the Notification under Section 3 of the Act for the establishment of the first Family Court being issued on 23<sup>rd</sup> April, 2009 but states that according to him, an appeal under Section 19 of the Act would not lie.

7. The counsel for the petitioner is blissfully unaware of the dicta of the Division Bench of this Court in *Manish Aggarwal Vs. Seema Aggarwal* (2012) 192 DLT 714 (DB) holding an appeal under Section 19 of the Act to lie against an order under Section 24 of the Hindu Marriage Act.

8. Moreover, there is no order qua maintenance as yet and all that the Family Court has done is, to have awarded litigation expenses. The litigation expenses ordered are also not such qua which it can be even said that they are exorbitant or unreasonable. Thus, even if this petition were to be treated as under Article 227 of the Constitution of India, there would be no ground for challenge to the impugned order.

Dismissed.

No costs.

**RAJIV SAHAI ENDLAW, J**

**SEPTEMBER 10, 2018/‘gsr’..**

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