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

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Judgment delivered on: 31.07.2018

+ CRL. REV.P. 832/2017 & CRL.M.A.18050/2017

NEERAJ CHAUHAN

..... Petitioner

versus

SMT ARTI CHAUHAN & ORS

..... Respondents

**Advocates who appeared in this case:**

For the Petitioner : Mr. Sunil Mehta, Advocate

For the Respondent: Respondent No.1 in person

**CORAM:-**

**HON'BLE MR JUSTICE SANJEEV SACHDEVA**

**JUDGMENT**

**31.07.2018**

**SANJEEV SACHDEVA, J. (ORAL)**

1. Petitioner impugns order dated 13.09.2107 whereby the Trial Court has directed that an ad hoc payment of Rs.1 lac be paid to the respondent pending the consideration of the application for grant of interim maintenance.

2. Learned counsel for the petitioner has contended that the Trial Court has erred in not noticing that the income of the petitioner is only about Rs. 4,000/- to 5,000/- per month. He further submits that the petitioner is willing to pay the share for the children into their bank account but is not willing to pay anything to the wife – respondent No. 1, as she is earning

and is disentitled to receive any maintenance.

3. The Trial Court has noticed the contention of the respondent that the petitioner was earlier doing business of property dealing and earning approximately Rs.3 lac per month. It is also noticed that the petitioner was running two cars – Hyundai i10 and Hyundai Santro and running the business of nutrition and food supplements in the name and style of Animatic Nutrition and Foods Private Limited besides business of property dealer and money lending. The respondent is working in the MCD as a Lower Division Clerk.

4. The Trial Court has noticed that there are two minor children who are in the custody of the respondent-wife.

5. Keeping in view the fact that the consideration of interim maintenance application was to take time, following the judgment of this Court dated 14.01.2015 in FAO 369/1996 in *Kusum Sharma vs. Mahinder Kumar Sharma*, the Trial Court directed the petitioner to pay an ad-hoc amount of Rs.1 lac to the respondent-wife. The Trial Court has held that the same would be without prejudice to the rights and contentions of the parties.

6. The stand of the petitioner that earlier he was doing business but at present he is earning Rs.4,000/- to Rs.5,000/- per month as a commission agent *prima facie* does not appeal to the court. The stand taken – that petitioner is willing to pay for the share of the children but not to the wife as she is disqualified – shows that the petitioner has the capacity to come up money but is not willing to pay the same.

7. Besides herself, the respondent is also taking care of the two minor children of the parties. They are school going children. The direction by the Trial Court is only an ad hoc interim measure of payment of Rs.1 lac to the respondent and the said payment is also without prejudice to the rights and contentions of the parties and thus would be subject to adjustment once an order assessing maintenance is passed by the trial court.

8. The petitioner is stated to have been doing the business of nutrition and food supplements, property dealership as well as money lending though it is now contended that he is no longer doing any business and is only earning meagre amount as commission. The rival contentions would be considered by the Trial Court at the time of assessing maintenance. The Trial Court would also take into consideration the affidavits of income & expenditure and assets that would be filed by the parties in terms of the judgement of this court in *Kusum Sharma* (supra).

9. Keeping in view the totality of the facts and circumstances of the case, I am of the view that the impugned order does not warrant any interference at this stage. The petition is accordingly dismissed.

10. This order would be without prejudice to the rights and contentions of the parties and the assessment of maintenance amount, if any, by the Trial Court after taking into consideration the affidavits filed by the parties.

11. Order *Dasti* under signature of the Court Master.

**SANJEEV SACHDEVA, J**

**JULY 31, 2018/ns**