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

+ **MAT.APP.(F.C.) 221/2017 & CM Nos.47100/2017, 47101/2017 & 47102/2017**

PARVIN KUMAR JAIN Appellant

Through: **Mr. Y.P. Narula, Sr. Advocate with
Mr. Ujas Kumar, Advocate**

versus

ANJU JAIN Respondent

Through: **None**

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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02.01.2018

Mr. Y.P. Narula, learned Senior Counsel appearing on behalf of the appellant states that he is willing to deposit a revalidated demand draft payable at Delhi, in the consolidated sum of Rs.1,20,000/-, in the name of the child Master Dhairya Jain with the registry of the concerned Court, on or before 23.01.2018, the next date fixed before the learned Family Court.

Mr. Y.P. Narula, learned Senior Counsel appearing on behalf of the appellant further raised strong objection to the imposition of penalty/cost of Rs.5,000/- per day, directed by the learned Family Court, by way of its order dated 15.12.2017, impugned in the present appeal.

Insofar as, imposition of penalty/cost of Rs.5,000/- per day is concerned, we are in agreement with the submission made on behalf of the appellant that the same cannot be sustainable in law. The said imposition of penalty/cost, directed by the learned Family Court by way of its order dated 15.12.2017 is accordingly set aside.

Mr. Y.P. Narula, learned Senior Counsel appearing on behalf of the appellant further states that the appellant has deposited more than he was required to, in terms of the directions issued by the learned Family Court by way of its order dated 17.07.2015 and craves leave to seek adjustment for the excess amount, if any, before the learned Family Court.

The leave, as prayed for on behalf of the appellant, is granted.

In this view of the matter, since the application filed on behalf of the respondent seeking enhancement of the maintenance awarded to her is still pending adjudication before the learned Family Court and is now coming up for disposal on 23.01.2018, Mr. Y.P. Narula, learned Senior Counsel, on instructions, seeks leave to withdraw this appeal at this stage, with liberty to agitate all legal issues, as may be available to the appellant, before the learned Family Court, including the issue of lack of inherent jurisdiction of the said Court to deal with matters other than the enhancement application, subsequent upon the unilateral withdrawal of the original petition by the appellant.

Leave and liberty granted.

The appeal is dismissed as withdrawn and disposed of accordingly. It is, however, hoped and expected that the learned Family Court shall dispose

of the pending enhancement application, as expeditiously as possible and positively, within a period of three months from the next date of hearing.

SIDDHARTH MRIDUL, J

DEEPA SHARMA, J

JANUARY 02, 2018

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