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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAT.APP.(F.C.) 308/2019**
ASHISH VATS

..... Appellant

Through: Mr. S.K. Verma, and Ms.Pooja
Chadha, Advocates

versus

DEEPA

..... Respondent

Through

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **29.11.2019**

C.M. Appl. No. 51387/2019 (Exemption)

Exemption allowed subject to all just exceptions.

MAT.APP.(F.C.) 308/2019, C.M. Appl. No. 51386/2019 (Stay),
51388/2019 (Additional documents)

1. The appellant is aggrieved by an order dated 18.10.2019, passed by the learned Family Court, North-West, Karkardooma, disposing of an application moved by the respondent/wife under Section 24 of the Hindu Marriage Act, praying, inter-alia, for grant of pendente lite maintenance at the rate of Rs.40,000/- per month.

2. By the impugned order, the learned Family Court has directed the appellant/husband to pay the respondent/wife maintenance at the rate of Rs.13,000/- per month from the date of moving the Section 24 application i.e. from 30.01.2019 till the disposal of the divorce petition filed

by him against the respondent/wife. The arrears have been directed to be deposited in the Bank Account of the respondent within eight weeks from the date of passing of the order and the monthly maintenance directed to be paid on the 10th day of each succeeding month.

3. Learned counsel for the appellant submits that the impugned order has been passed in a mechanical manner without considering the true and correct facts of the case; that the respondent/wife is an educated lady having a B.Ed. degree and the Family Court has not considered the submission made by the appellant that she is earning Rs.25,000/- per month at a Coaching Centre and is therefore, not entitled to any maintenance ; that the appellant is not an Income Tax Payee, which itself reveals that he does not have any taxable income and lastly, that he presently is under medical treatment at IHBAS for depression.

4. None of the aforesaid submissions made by learned counsel for the appellant are of any consequence as it appears from a perusal of the impugned order that the appellant has deliberately sought to withhold material information regarding his financial status from the Family Court.

5. The admitted facts of the case are that the marriage of the parties was solemnised on 01.05.2015 at Bagpat, Haryana. The parties have cohabited for just about two years, when as per the respondent/wife, she was thrown out of the matrimonial home by the appellant on 17.05.2017. Thereafter, the respondent/wife has been living at her parental home. The respondent had stated before the Family Court that the appellant has his own business of manufacturing and supplying of automobile spare parts at Bawana Industrial

area under the name and style of “STK Engines Parts”; that he is a post-graduate; that he is an income tax payee, maintaining a Swift Car and two-wheeler/motor-cycle and his income is not less than Rs.1 lakh per month.

6. The aforesaid submissions were disputed by the appellant in the reply submitted by him to the Section 24 application, whereunder, he had stated that the respondent has a B.Ed. degree and having good experience in teaching and prior to her marriage, she was teaching in a school at Bagpat, where she was receiving a salary of Rs.15,000/- per month and that she is still imparting tuitions to students from her home. The appellant had further denied that he is running his own business under the name and style of “STK Engines Parts” and instead, asserted that he is employed as a trainer at a Health Club, since October 2018 and is being paid a paltry amount of Rs.8,000/- per month as salary.

7. On a pointed query addressed to learned counsel for the appellant as to whether the appellant is still residing at his parental home, learned counsel states that the appellant has been disowned by his parents after a matrimonial dispute had erupted with the respondent and that he had moved out from his parental home sometime in September 2018. We have next enquired from learned counsel as to the appellant’s vocation when his marriage had been solemnised with the respondent. He states that the appellant was in the business of supplying and trading in automotive spare parts in a partnership firm. This sudden downfall in the economic status of the appellant, which has brought about such a reduction in his standard to a gym trainer, has been disbelieved outright by the learned Family Court and in our opinion rightly so.

8. On enquiring from the learned counsel for the appellant as to whether the parents of the appellant are dependent on him, he states that his father had retired from Delhi Police and is getting a regular pension and the parents are living in their own house. In our opinion, in such circumstances, the income of the appellant ought not to have been divided into four parts by the Family Court by assigning one unit to his parents, who are economically independent.
9. At this stage, learned counsel for the appellant states that he does not wish to press this appeal and seeks leave to withdraw the same.
10. Leave as prayed for, is granted. The appeal is dismissed as withdrawn along with the pending applications.

HIMA KOHLI, J

ASHA MENON, J

NOVEMBER 29, 2019

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