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

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Date of Judgment: 08.03.2019

+ **MAT.APP.(F.C.) 68/2019**

M S S

..... Appellant

Through: Mr. Abhishek Kumar, Mr. Krishan
Kumar & Mr. Sanjay Tandon,
Advocates

versus

P K

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE JYOTI SINGH

G.S. SISTANI, J. (ORAL)

CM APPL. 10354/2019

Exemptions allowed, subject to all just exceptions.

The application stands disposed of.

CM APPL. 10356/2019

For the reasons stated in the application, the same is allowed and the delay of 20 days in filing the appeal is condoned.

The application stands disposed of.

MAT.APP.(F.C.) 68/2019 & CM APPL. 10355/2019

1. The appellant is aggrieved by the order dated 16.11.2018, by which an application filed by him seeking recall of the order dated 08.03.2018, has been adjourned for 14.03.2019.
2. Counsel for the appellant submits that the Family Court, by an order dated 08.03.2018, had fixed the interim maintenance to be paid by the appellant to the respondent at the rate of Rs. 15,000/- per month. He submits that this order was passed without detailed hearing.
3. He further submits that the order has far reaching consequences as the appellant has been directed to pay maintenance from 09.03.2016 and all arrears are to be cleared within two months from the date of the said order. He submits that in case the order was purely interim in nature, the Family court could have directed the appellant to pay maintenance from the date of the order and the question of arrears could only have been decided upon a detailed hearing.
4. He further submits that the respondent is a well-qualified lady, who is M.Sc.(Mathematics) and M.B.A. and prior to marriage, at the time of marriage and even thereafter, she was gainfully employed.
5. He submits that at this stage, he only seeks a limited direction to the Family court to hear the application filed under Section 24 of the Hindu Marriage Act by the respondent and the application for modification of the order dated 08.03.2018 filed by the appellant herein, on 14.03.2019, the date already fixed.

6. We find force in the submissions made by the counsel for the appellant. However, without expressing any opinion on the merits of the case, and without prejudice to the rights of either of the parties, we dispose of the appeal with a direction to the Family court to hear both the applications, i.e. application filed under Section 24 of the Hindu Marriage Act by the respondent/wife and the application seeking modification of the order dated 08.03.2018 filed by the appellant herein, on the date already fixed, i.e. 14.03.2019.

7. The request for stay of payment of arrears will also be considered by the Family Court on the said date.

8. With these directions, the appeal is disposed of.

9. A copy of the order be given *dasti* under the signatures of Court Master to counsel for the appellant.

G.S.SISTANI, J

JYOTI SINGH, J

MARCH 08, 2019
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