

\$~

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

CRL.REV.P. 450/2019

Date of Decision: 05.12.2019

IN THE MATTER OF:

RANJIT SINGH

..... Petitioner

Through: Nemo.

Versus

LATA KUMARI

..... Respondent

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

MANOJ KUMAR OHRI, J. (ORAL)

1. No one is present on behalf of the petitioner. Even on the last date of hearing, petitioner remained unrepresented despite a pass over. The matter is still at the admission stage.

2. The present petition has been filed against the impugned order 14.11.18 whereby the Family Court, while considering the monthly income of Rs.20,000/- mentioned in the income affidavit filed by the petitioner/husband, directed him to pay ad interim maintenance @

Rs.7,000/- per month to the respondent/wife along with further direction to pay the arrears as well as sum of Rs.8,000/- towards litigation expenses.

3. In Annurita Vohra Vs. Sandeep Vohra reported as **110 (2004) DLT 546**, this Court has held as under :-

“2. In other words the court must first arrive at the net disposable income of the Husband or the dominant earning spouse. If the other spouse is also working these earnings must be kept in mind. This would constitute the Family Resource Cake which would then be cut up and distributed amongst the members of the family. The apportionment of the cake must be in consonance with the financial requirements of the family members, which is exactly what happens when the spouses are one homogeneous unit. Ms. Geeta Luthra, learned counsel for the Respondent, had fervently contended that normally 1/5th of the disposable income is allowed to the Wife. She has not shown any authority or precedent for this proposition and the only source or foundation for it may be traceable to Section 36 of the Indian Divorce Act, 1869. This archaic statute mercifully does not apply to the parties before the Court, and is a vestige of a bygone era where the wife/woman was considered inferior to the husband as somewhat akin to his chattels. The law has advanced appreciably, and for the better. In the face of

Legislatures reluctant to bring about any change over fifty years ago the Courts held that the deserted wife was entitled to an equal division of matrimonial assets. I would be extremely loath to restrict maintenance to 1/5th of the Husband's income where this would be insufficient for the Wife to live in a manner commensurate with her Husband's status or similar to the lifestyle enjoyed by her before the marital severance. In my view, a satisfactory approach would be to divide the Family Resource Cake in two portions to the Husband since he has to incur extra expenses in the course of making his earning, and one share each to other members.

4. In view of the decision in Annurita Vohra (supra), I find no infirmity or illegality in the impugned order. Accordingly, the petition is dismissed. Miscellaneous application is dismissed as infructuous.

 (MANOJ KUMAR OHRI)
JUDGE

DECEMBER 05, 2019

ga