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

+ LPA 293/2019 & C.M.No.20601/2019 (*stay*)

MUKESH KR SHARMA Appellant

Through: Mr. Ranjit Sharma, Adv.

Versus

OM PRAKASH GAUR Respondent

Through: None.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **01.05.2019**

C.M.No.20602/2019 (*exemptions*)

Allowed, subject to all just exceptions.

C.Ms.No.20600/2019 & 20603/2019 (*delay*)

For the reasons stated in the applications, the delay in filing as well as re-filing is condoned.

The applications are disposed of.

LPA No.293/2019

1. Challenging an interlocutory order dated 4th December, 2018 passed by the learned writ Court in W.P.(C) No.13009/2018, the petitioner has filed this appeal. The appellant is the son of the respondent Sh.Om Prakash Gaur who had initiated the proceedings before the Maintenance Tribunal claiming

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maintenance under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The tribunal allowed the application and directed for payment of maintenance @ Rs.10,000/- every month and arrears were also directed to be paid from June, 2016 till September, 2018.

2. *Inter alia* contending that the order for grant of maintenance was passed without hearing him, a writ petition was filed before this Court being W.P.(C) No.10408/2017. The said writ petition was disposed of on 24th November, 2017 granting liberty to the appellant to file a recall order before the Maintenance Tribunal. The appellant is said to have filed the application for recall on 30th November, 2017 and when the same was rejected on 2nd November, 2018, the present writ petition has been filed.

3. In the present writ petition while issuing notice, as an interim measure, the learned writ Court has directed the appellant to deposit Rs.50,000/- with the Registry of this Court; and further, during the pendency of the petition to pay Rs.10,000/- as maintenance per month by depositing it in the bank account of the respondent before 10th of each calendar month.

4. Challenging this interlocutory direction passed by the learned writ Court, this appeal has been filed on the ground that the appellant has been saddled with the responsibility of paying maintenance in a illegal and arbitrary manner. Various other grounds are also raised for impugning the same.

5. As the question of granting maintenance is sub-judice before the learned writ Court in the pending writ petition, which is now listed for further orders on 10th May, 2019, the discretion exercised by the learned writ Court in passing the interlocutory order for payment of maintenance to the

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respondent who is a senior citizen, does not call for any interference in this appeal.

6. We find no error in the discretion exercised by the learned writ Court in passing the impugned order. The appeal is, accordingly, dismissed along with the pending application.


CHIEF JUSTICE


ANUP JAIRAM BHAMBHANI, J.

MAY 01, 2019
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