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

+ **MAT.APP.(F.C.) 195/2019 & CM APPLs. 32826-32827/2019**

AMIT KUMAR

..... Appellant

Through Mr. Vijay Kinger, Mr. Anurag Saxena, Ms. Usha Srivastava, Ms. Roopa Nagpal, Advocates with appellant in person.

versus

KAVITA

..... Respondent

Through Ms. Anuradha Mittra, Advocate.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **02.12.2019**

1. Pursuant to the order dated 26.11.2019, learned counsel for the appellant states that the appellant has paid a sum of Rs.1,95,000/- to the respondent.
2. Learned counsel for the respondent confirms the said position and states that even after adjusting the sum of Rs.1,95,000/-, the appellant is liable to pay an additional sum of Rs.75,000/- towards arrears of maintenance for the months of July, 2019 to November, 2019. He further states that a limited notice was issued in the present appeal only on the aspect of penal cost/compensation @Rs.1,000/- per day imposed by the Family Court vide impugned order dated 12.02.2019. He informs us that an execution petition has already been filed by the respondent against the

appellant wherein, the aspect of arrears of the maintenance referred to herein-above, is also under consideration.

3. As the scope of the present appeal is limited to waiver of penal cost/compensation @Rs.1,000/- per day, as imposed by the impugned order dated 12.02.2019 and keeping in mind the fact that the appellant had not paid any penny to the respondent in terms of the impugned order, it is deemed appropriate to direct the appellant to pay simple interest @12% per annum to the respondent for the amount illegally withheld by him in the absence of any interim order operating in his favour. The interest component shall be paid by the appellant to the respondent alongwith a computed statement within two weeks from today.

4. Subject to the appellant paying the interest on the arrears to the respondent as directed above within the prescribed timeline, the penal cost/compensation of Rs.1,000/- per day imposed by the Family Court in the impugned order dated 12.02.2019, shall not be given effect to. It is however made clear that any default on the part of the appellant in paying the interest as directed above within the prescribed timeline would result in an automatic revival of the impugned order insofar as penal cost/compensation has been ordered.

5. Coming next to the outstanding arrears of maintenance payable by the appellant @Rs.15,000/- from the month of July, 2019 onwards, learned counsel for the appellant states that his client has moved an application for seeking modification of the impugned order before the Family Court in October, 2019 on which notice has been issued and the said application is listed before the Family Court on 12.12.2019.

6. The present appeal is disposed of with liberty to the appellant to pursue the aforesaid application. Similarly the respondent shall be entitled to oppose the said application on all the grounds that may be available to her, both in law and on facts.

HIMA KOHLI, J

ASHA MENON, J

DECEMBER 02, 2019/MK/s

MAT.APP.(F.C.) 195/2019

Page 3 of 3