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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) 86/2018**

JASBIR KAUR

..... Appellant

Through: Mr. Varun Goswami, Mr. Rajender Singh, Mr. Rahul Sinha, Ms. Barkha Khattar and Ms. Arshlina Chawla, Advocates.

versus

BHUPENDER SINGH BAWA & ORS.

..... Respondents

Through: Mr. Kirtiman Singh, Advocate for R-4.

Mr. Jeevesh Nagrath and Mr. Abhinav V. Gupta, Advocates for R-1 to R-3.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
31.10.2019

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1.This appeal has been filed against an order of the learned Single Judge dated 10th May, 2018 in an application being I.A. No.3273/2014 filed by the present Appellant in C.S. (OS) 1185/2011, praying for enhancement of the monthly amount directed to be paid to her from Rs.12,000/- to Rs.60,000/-. By the impugned order, the learned Single Judge considered it appropriate to enhance the monthly amount from Rs. 10,000 /- to Rs. 20,000 /- with effect from May, 2018.

2. A preliminary objection has been raised by learned counsel for the Respondents /Defendants Nos. 1 to 3, as to the maintainability of the present appeal.

3. In response to such preliminary objection, learned counsel for the Appellant has placed reliance on the observations in Paragraph 81 of the judgment of the Supreme Court in *Shah Babulal Khimji v. Jayaben D. Kania (1981) 4 SCC 8*.

4. According to learned counsel for the Appellant, the observations of the learned Single Judge in para 17 of the impugned order, read with the operative portion in para 19 thereof should be construed as a final determination of the right of the Appellant/Plaintiff to claim enhanced monthly amount from the Respondents/Defendants Nos. 1 to 3.

5. Having perused para 17 of the impugned order, the Court finds that while it is a slightly long sentence, it is essentially in the form of a query posed by the Court to the Appellant/Plaintiff about whether there was any admission of the Defendants of her entitlement to any of the properties or to a share therein. The Court is unable to discern any final determination by the learned Single Judge in para 17 of the impugned order.

6. As far as the operative portion in Paragraph 19 is concerned, the sentence begins with the words “this Court at this stage is only enhancing ...” The phrase “at this stage” is clearly indicative of the fact that the determination is a tentative one and is not intended to be final. Consequently, this Court does not see the impugned order as satisfying the test laid down by the Supreme

Court in *Shah Babulal Khimji v Jayaben D. Kania* (*supra*).

7. The appeal accordingly held not maintainable and is dismissed as such.

S. MURALIDHAR, J.

TALWANT SINGH, J.

OCTOBER 31, 2019

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