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

+ MAT.APP.(F.C.) 74/2017

MUKESH SHARMA

..... Appellant

Through Mr. Roshan Saini and Ms. Geetika,
Advocates

versus

ALKA

..... Respondent

Through Mr. Narendra Kumar Upadhyay,
Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **16.01.2019**

CM.APPL 16514/2017(delay)

This is an application filed by the applicant/appellant seeking condonation of 41 days delay in filing the present appeal. For the reasons stated in the application, the application is allowed. Delay in filing the present appeal is condoned.

The application stands disposed of.

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Challenge in this appeal is to the order dated 07.02.2017 passed by the Family Court by which an application filed by the respondent/wife under Section 24 of the Hindu Marriage Act was allowed. This order is assailed on the ground that the affidavit filed by the respondent/wife is false and material facts and information has been concealed. It is submitted that the wife has not disclosed that she is receiving income from the property in the village belonging

to the appellant. Counsel further submits that she has also not disclosed that she has control over all the assets of the appellant and is, in fact, residing in his property.

We have heard the learned counsels for the parties. In this case, marriage between the parties was solemnised on 15.01.2004. Two children were born out of the wedlock who are in the care and custody of the respondent/wife who is suffering from polio. Both the children are being looked after by the respondent/wife. In our view, since admittedly the respondent is not earning, the affidavit filed by her would be of little or no relevance. To say that she is receiving income from the property of the appellant is also of no consequence. Moreover, except for a bald statement, no details have been provided. Even otherwise, if as claimed by the appellant, the property belongs to him, it would be for the appellant to give details of income from the property, if received by the respondent.

In our view, the Family Court has correctly applied the law and divided the income of the appellant into five portions and based on the Income Tax Returns filed by the appellant fixed Rs.12,000/- per month as maintenance.

We find no ground to interfere in the order passed by the Family Court. Accordingly, the appeal is dismissed.

CM.APPL 16513/2017 also stands dismissed.

G.S.SISTANI, J

JYOTI SINGH, J

JANUARY 16, 2019

pst /
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