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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ MAT.APP.(F.C.) 168/2017, C.M.Nos. 34125/2017 & 33153/2018
RUCHIKA GUPTA Appellant

Through: Mr.P.D.Gupta, Mr.R.K.seewal,
Mr.G.C.Rawal and Mr.Manu Giri,
Advocates

versus

AMIT GUPTA Respondent

Through: Mr.Pradeep Verma, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **15.01.2019**

1. Challenge in this appeal is to the order dated 25.08.2017, by which the Family Court has dismissed an application filed by the appellant/wife under Order 12 Rule 6 read with Section 151 of the Code of Civil Procedure.

2. After some hearing on the merits of the matter, Mr.P.D.Gupta, counsel for the appellant points out that the respondent has failed to pay a sum of Rs.1,30,345/- being part payment of the maintenance during the pendency of the present appeal. Counsel for the respondent submits that this amount of Rs.1,30,345/- was deposited with Apeejay School while Mr.Gupta submits that the child is studying in Jesus and Mary Convent School. The questions (i) as to whether this amount is to be adjusted or not and (ii) whether this amount is refundable or not, will be considered by the Family Court. In the meanwhile, it is agreed that the said amount of Rs.1,30,345/- shall be paid to the appellant within two months.

3. Mr.P.D.Gupta, learned counsel for the appellant also prays that the observations made by the Family Court while disposing of the application under Order XII Rule 6 of the Civil Procedure Code, should not come in the way of the appellant at the time of final adjudication of the matter.

4. We make it clear that any observation made by the Family Court will not come in the way of the appellant at the time of final hearing. The matter will be heard on merits unaffected by the observations made at the time of disposal of the application under Order XII Rule 6 CPC.
5. The appeal and C.M.Nos. 34125/2017 & 33153/2018 are dismissed as not pressed.
6. Interim order dated 18.09.2017 is vacated.

G.S.SISTANI, J

JYOTI SINGH, J

JANUARY 15, 2019

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