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

+ MAT.APP.(F.C.) 333/2019 and C.M. No. 54819/2019 (stay)
DR MAHIMA NANDA KAPOOR Appellant
Through: Mr. Maninder Singh, Ms. Aekta Vats,
Mr. Vikram Kalra and Mr. Sarthak Garg,
Advocates with the appellant in person.

versus

TEJ KAPOOR Respondent
Through: Mr. Saurav Joon, Mr. Sudarshan Joon
and Ms. Sudarsha Joon, Advocates with the
respondent in person.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE ASHA MENON

% **ORDER**
25.02.2020

1. On 20.12.2019, notice was issued on the appeal directly to the respondent as also to the counsel appearing for him before the learned Family Court, returnable on 23.12.2019. Liberty was also granted to the appellant to give a written intimation of the next date of hearing to the respondent and/or his counsel with a complete set of the appeal paperbook. Despite making compliances, the respondent did not turn up on 23.12.2019, though the matter was passed over twice. However, in the interest of justice, learned counsel for the appellant was directed to file fresh process fee for effecting service on the respondent, returnable for today. The respondent has

finally turned up today and appears along with his counsel, who tenders an apology for the absence of the respondent on the last date of hearing.

2. The record reveals that the respondent has filed a reply to the appeal, which is impermissible. At best, the respondent could have filed a reply to the stay application. The reply filed by the respondent is directed to be taken off the record and returned to learned counsel for the respondent.

3. Mr. Singh, learned counsel for the appellant states that after the impugned order dated 10.12.2019 came to be passed by the learned Family Court, allowing an application moved by the respondent/husband for interim custody of the six years old son of the parties, who is under the care and custody of the appellant/wife, along with directions issued to him to pay *ad interim* maintenance for the minor son of the parties @ Rs.50,000/- per month with effect from 05.10.2018, the respondent moved an application before the Family Court within one week therefrom, asking for modification of the impugned order and for a clarification that the *ad interim* maintenance be payable to the appellant for the minor child, by adjusting a sum of Rs.40,810/-, from the amount that has been directed to be paid by him. It is submitted that notice has been issued by the learned Family Court on the aforesaid application, returnable on 05.5.2020.

4. Between the date of passing of the impugned order i.e., 10.12.2019 and today, the specific dates on which interim custody of the child was granted to the respondent/father have already expired. In view of the above, no further orders are required to be passed on this appeal which has worked itself out.

5. While reserving the right of the parties to take all the pleas that may be available to them, both in law and on facts before the learned Family Court, the appeal is disposed of along with the pending application.

HIMA KOHLI, J

ASHA MENON, J

FEBRUARY 25, 2020

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