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

+ MAT.APP.(F.C.) 204/2019, C.M. No. 34093/2019 and C.M. No.
34094/2019

DEEPAK UPPAL Appellant

Through: Appellant in person.

versus

SEEMA Respondent

Through: Mr. M.K. Duggal, Advocate and the
respondent in person.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **03.03.2020**

MAT.APP.(F.C.) 204/2019, C.M. No. 34093/2019 (by the appellant for stay) and C.M. No. 34094/2019 (by the appellant for condonation of delay in filing the appeal)

1. The present appeal is directed against an order dated 14.5.2019, passed by the Principal Judge, Family Courts (Central), Delhi whereby an application moved by the respondent/wife under Section 24 of the Hindu Marriage Act, 1955 for seeking *pendente lite* maintenance was allowed by directing the appellant to pay maintenance @ Rs.10,000/- per month to the respondent/wife and @ Rs.5,000/- per month to the minor child of the parties, in the care and custody of the respondent/wife, towards education.

The said amount was held to be due and payable with effect from 14.1.2008, the date when the application for maintenance was moved by the respondent. The Family Court directed that in the event of any default in making the payment of maintenance, penal costs/compensation @ Rs.150/- per day shall have to be paid by the appellant. Further, litigation costs to the tune of Rs.50,000/- were awarded in favour of the respondent/wife.

2. On 09.10.2019, when the present appeal was listed for admission, learned counsel for the appellant had stated that the main grievance of the appellant is regarding the penal costs and compensation of Rs.150/- per day directed to be paid to the respondent/wife in case of any default in paying the maintenance. As a result, a limited notice on the aforesaid aspect was issued to the respondent. We may also note that on 09.10.2019 itself, counsel for the appellant had undertaken that his client would pay the first instalment of the arrears of maintenance to the tune of Rs.50,000/-, to the respondent, if given a week's time and the second instalment for the same amount would be credited by him into her saving bank account on or before 24.10.2019.

3. On 24.10.2019, learned counsel for the appellant had stated that the appellant had deposited a sum of Rs.20,000/- through RTGS into the account of the respondent on 23.10.2019. He assured this court that a sum of Rs.30,000/- from out of the balance arrears of maintenance of Rs.80,000/- shall be credited into the bank account of the respondent on or before

25.10.2019 and the remaining sum of Rs.50,000/-, on or before 30.10.2019. At the request of learned counsel for the appellant, the matter was adjourned to 08.11.2019. On 08.11.2019, counsel for the respondent entered appearance and pointed out that the appellant was in default of the order dated 24.10.2019. At that, counsel for the appellant had assured the court that if further time is granted, the appellant shall deposit some more amount into the account of the respondent.

4. It is undisputed that by now, the appellant has paid Rs.20,000/-, Rs.30,000/-, Rs.30,000/- and Rs.20,000/- in four instalments, to the respondent, through RTGS. Learned counsel for the respondent states that even after adjusting the aforesaid amount, the arrears of maintenance are to the tune of Rs.2,26,000/- calculated upto March, 2020.

5. In the pre-lunch session, the matter was passed over and the appellant was cautioned that he must pay balance sum of Rs.20,000/- as undertaken by him and recorded in the order dated 08.11.2019. Even on passover in the post lunch session, the appellant states that he is not in a position to arrange the funds.

6. As noted above, only a limited notice was issued in the present appeal on the aspect of penal costs/compensation of Rs.150/- per day imposed by the learned Family Court, in case of default in paying the maintenance to the respondent. The appellant continues to remain in default. It appears to us that he is trying to use the present appeal as an excuse to resist paying maintenance to the respondent and the minor child, as fixed by the Family Court, which is impermissible.

7. In view of the aforesaid conduct of the appellant, we are not inclined to entertain the present appeal, which is dismissed along with the pending applications.

HIMA KOHLI, J

ASHA MENON, J

MARCH 03, 2020

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