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

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Decided on: 27th April, 2022

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MAT.APP.(F.C.) 32/2022

LALIT MAKHAN

.....Appellant

Represented by: Mr. Virendra Singh, Advocate.

versus

AARTI VALIA

..... Respondent

Represented by: Respondent in person.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

NEENA BANSAL KRISHNA, J. (ORAL)

1. The appellant (*who was the respondent in the divorce petition*) has filed the present appeal under Section 19 of the Family Court Act, 1984 against the order dated 23rd November, 2021 granting maintenance in the sum of ₹6,000/- per month to the respondent (*who is the petitioner in the divorce petition*)) and the son.

2. The facts in brief are that the marriage between the appellant and the respondent was solemnized on 22nd May, 2013 and a son was born from the wedlock on 8th May, 2014. Differences arose between the parties and the petition for divorce under Section 13 (1)(ia) of Hindu Marriage Act, 1955 (*hereinafter referred to as the 'Act, 1955'*) was filed by the respondent-wife against the appellant-husband. During the proceedings, an application under Section 24 of the Act, 1955 was filed by the appellant as well as by the respondent for claiming *pendente lite* maintenance. The learned Judge,

Family Court observed that though the respondent herein was qualified and was having a degree of BA.LLB, but she was not having any source of income and was responsible to maintain herself as well as the child. Since the appellant-husband failed to disclose his income, it was assessed as ₹14,000/- per month being minimum wages for unskilled worker and maintenance in the sum of ₹6,000/- per month for both the respondents w.e.f. 27th November, 2018 till further orders/pendency of the petition was granted. The claim of the appellant for maintenance under Section 24 of the Act, 1955 was dismissed.

3. Aggrieved by the grant of interim maintenance, the appellant has preferred this appeal.

4. The main grounds agitated by him are that the appellant in his written statement in paragraph 14 of the preliminary submissions had disclosed that after completion of class 12th, the respondent took admission in three-year diploma course in Architecture from Lucknow and thereafter, she took admission in five year BA.LLB degree course which she completed in the year 2018, but she was caught cheating because of which she failed in a subject despite which she was working with Mr. Mukesh Kumar, Advocate and had filed the divorce petition with the sole aim of extorting money at the instance of her mother. He had further asserted that while working as Associate with an Advocate, she was earning ₹15,000 to ₹20,000/- per month. Moreover, the appellant in his income affidavit dated 24th September, 2021 had clearly indicated that the respondent, who was a qualified advocate, was earning about ₹50,000/- to ₹60,000/- per month and was having a chamber in Civil Court, Ghaziabad, Uttar Pradesh as well as in Karkardooma Courts. The respondent has independent income along with

part time income, which is evident from the visiting card of the practicing advocate along with the visiting card of Valia Cosmetic and Gift Centre shop. The respondent has concealed her profession and that she has been practicing as an Advocate for the last four years and has a good status amongst the Bar and she also addresses press conferences being a decent Advocate.

5. The appellant on the other hand, is only 12th class, unskilled labour and has not been able to work regularly due to the impact of COVID-19 and is trying to meet his daily expenses from daily wages. The impugned order is, therefore, liable to be set aside considering that the respondent is much more qualified and has earnings more than that of the appellant.

6. Submissions heard.

7. It is not disputed by the respondent that she is holding a degree of BA.LLB, but as per her affidavit of income she has stated that she is not earning anything. Merely because the respondent is an Advocate would not be sufficient to conclude that she is earning, especially when it has been specifically denied in her affidavit. She has the responsibility of maintaining not only herself but also the son.

8. The appellant had disclosed in his affidavit of income that he was earlier working as Conductor in Gramin Sewa and was earning about ₹6600/- per month. Learned Judge, Family Court, has made a reference to the statement of bank account of appellant which shows heavy flow of amount in the year 2018-19 vis-à-vis transactions of about ₹50,000/- and there are more than one transaction to the tune of ₹2 lakhs. The credit entries of the said account show consistent inflow of funds. The membership application form submitted by the appellant in Vikasheel

Co-operative (Urban) Thrift and Credit Society Ltd. had also been placed on record to show that he had disclosed his monthly income to be ₹20,000/- (on 10th February, 2014) in the said application and had also claimed that he was having property worth ₹50 lakhs. This buttresses the claim of the respondent that the appellant has good source of income. The appellant has not disclosed his sources of income. His income has been assessed on the basis of minimum wages for unskilled worker as ₹14,000/- per month, which cannot be faulted. Considering that the respondent-wife as well as the son is to be maintained, a sum of ₹6,000/- as awarded cannot be considered to be excessive.

9. There is no merit in the appeal, which is hereby dismissed.

CM APPL. 14540/2022 (stay)

1. In view of the order passed in the appeal, the application is disposed of as infructuous.
2. Order be uploaded on the website of this court.

(NEENA BANSAL KRISHNA)
JUDGE

(MUKTA GUPTA)
JUDGE

APRIL 27, 2022

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