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

% ***Date of decision: 12th October, 2023***

+ **MAT. APP.(F.C.) 235/2023**

MS. RENU RANA Appellant
Through: Ms. Mansi Sharma & Mr. Astha
Baderiya, Advocates (DHCLSC) with
appellant in person.

Versus

MR. AJAY RANA Respondent
Through: Mr. Pradeep Sehrawat & Ms. Manju
Sehrawat, Advocates.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CM APPL. 41965/2023 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

CM APPL. 41966/2023 (Condonation of delay)

3. The present Application under Section 151 of the Code of Civil Procedure, 1908 read with Chapter IV Rule 3 of the Delhi High Court Rules, 2018 has been filed on behalf of the applicant/appellant seeking condonation of 248 days' delay in re-filing the present appeal.



4. For the reasons and grounds stated in the present application, the application is allowed, the delay of 248 days in re-filing the present appeal is hereby condoned.

5. Accordingly, the present application is disposed of.

CM APPL. 41964/2023 (Condonation of delay)

6. The present Application under Section 5 of the Limitation Act, 1963 has been filed on behalf of the applicant/appellant seeking condonation of 70 days' delay in filing the present appeal.

7. For the reasons and grounds stated in the present application, the application is allowed, the delay of 70 days in filing the present appeal is hereby condoned.

8. Accordingly, the present application is disposed of.

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9. **The Appeal under Section 19 of the Family Courts Act, 1984 read with Section 28 of the Hindu Marriage Act, 1955** (*hereinafter referred to as "HMA"*) has been filed against the Order dated 29.08.2022 denying the *pendente lite* maintenance to the appellant/wife under Section 24 of the HMA.

10. Briefly stated, the parties got married on 08.12.2015 at New Delhi according to Hindu rites and customs and one son Master Rishabh was born on 06.09.2017 out of the said wedlock. The parties separated on 22.11.2019 after which the appellant/wife filed a petition for Restitution of Conjugal Rights under Section 9 of the HMA. She also filed an application under Section 24 of the HMA seeking *pendente lite* maintenance.

11. **The learned Principal Judge, Family Courts** vide the impugned Order observed that the appellant was a qualified lady having a professional



degree of MBA. She had been working till the filing of the present petition. Moreover, she had herself stated that she and her brother had to run the house by taking tuitions and doing temporary jobs. Further, in her petition under Protection of Women from Domestic Violence Act, 2005, she herself stated that the respondent has lost his job in 2016 and remained unemployed till November, 2019 i.e. for about 3 years, during which period, she supported him financially. Considering the qualifications and that the appellant/wife had been working, the interim *pendent lite* maintenance was declined.

12. **Aggrieved, the present Appeal has been preferred.**

13. **Submissions heard and record perused.**

14. Indisputably, the appellant is a qualified lady having professional degree of MBA. She has not denied that she had been working and getting a salary of Rs.18,000/- per month. However, she left her job after the settlement/agreement between the parties on 19.09.2020 wherein, they agreed that she would not do a job to take care of the son till he turn two years. She therefore left her job and being unemployed, sought maintenance from the husband.

15. The respondent/husband is also holding an MBA degree but as per his income affidavit, he is working and getting a salary of Rs.21,000/- per month.

16. Admittedly, the appellant/wife is not only professionally qualified but had been working all throughout. According to her own admission, she left the job on 23.03.2020, however, the alleged Settlement Deed pursuant to which she allegedly left the job is dated 19.09.2020 i.e. after about six months. The claim of the appellant that she left her job after a mutual



agreement between the parties, is patently not tenable since she left the job six months prior to the alleged settlement.

17. Moreover, she herself had stated that while her husband was without job from 2016 to 2019, she had supported him financially. Further, as per her own submissions, she and her brother have been taking care of the household expenditure by taking tuitions.

18. In *Crl.Rev.P. 344/2011* titled as *Damanpreet Kaur Vs. Indermeet Juneja and Anr.* decided by a Coordinate Bench of this Court on 14.05.2012, it was observed that a well educated woman who have been working even after the marriage but chooses to resign after separation, cannot be granted interim maintenance. There is no doubt that there is a distinction between actual earning and the earning capacity and where the circumstances justify, the lady may not be able to work despite her professional/educational qualifications, however, it is for the lady to explain the circumstances because of which she is unable to resume her work.

19. We find that in the present case, the appellant is not only professionally qualified but had always been working and apparently, is taking home tuitions. According to her explanation, she had decided along with the respondent in September, 2020 that she may not take up the job for two years to take care of the child. Now, we are in 2023 and her apparent explanation also loses its credibility, moreso, when as per the submissions of the appellant, she has been taking home tuitions.

20. We find that the learned Principal Judge, Family Courts has considered all the facts and circumstances and rightly denied the interim maintenance to the appellant.

21. There is no infirmity in the impugned Order and we hereby dismiss



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the Appeal.

22. The pending applications, if any, also stand disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 12, 2023

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Signature Not Verified

Digitally Signed By: AHIL
SHARMA

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