

\$~15

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

%

Judgment delivered on: 28.04.2023

+ MAT.APP.(F.C.) 114/2023 & CM APPLs. 21441-43/2023

DEVENDER KUMAR

..... Appellant

versus

KUSUM LATA

.....Respondent

Advocates who appeared in this case:

For the Appellant: Mr. Raj Kumar, Advocate.

For the Respondent:

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns order dated 16.01.2023 whereby the application filed by the respondent-wife under section 24 of The Hindu Marriage Act, 1955 has been disposed of and appellant has been directed to pay monthly maintenance of ₹6,000/- to the respondent from the date of filing of the application till further orders/pendency of the divorce petition.

2. Learned counsel for the appellant submits that appellant is a driver of an e-rickshaw and earns only about ₹10,000/- per month and it is not within its capacity to pay the said amount of ₹6,000/-.

3. We noticed that the parties have two children, aged nearly 15 years and about 19 years and both of them are living with the respondent/wife.

4. The contention of learned counsel for the appellant is that respondent was employed and Employees' State Insurance Corporation Contribution was being regularly deducted from her account.

5. We notice that the documents filed on record show that ESIC contribution was deducted only till the year 2017 and, thereafter, there is no evidence of any amount being deducted.

6. On a query, learned counsel for the appellant submits that she is doing household work and doing some stitching, however, we find that there is no material to substantiate that allegation.

7. Further, contention of learned counsel for the appellant, that even the elder daughter is working in some school and earning, is also not borne out from the record. It is also an admitted position that the younger child is a minor and is presently studying.

8. The Family Court has noticed that there is no true and fair disclosure of the income by the appellant and has assessed the income taking the minimum wage of an unskilled worker at ₹13,500/-.

9. The contention of the learned counsel for the appellant is that appellant is a driver and driving an e-rickshaw which shows that the appellant is not an unskilled worker as the driver would be a semi-

skilled worker. The assessment of the Family Court taking the income at ₹13,500/- in our view does not warrant any interference for reduction of the amount. Further, the monthly maintenance of ₹6,000/- for three persons i.e., the wife and two children in our view would be even less than the amount required for bare subsistence, however, keeping in the facts and circumstances of the case, we are of the view that said order does not warrant any interference for reduction of the amount.

10. We find no merit in the appeal, appeal is, consequently, dismissed.

SANJEEV SACHDEVA, J.

VIKAS MAHAJAN, J.

APRIL 28, 2023
MK

न्यायमेव जयते