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

% Judgment delivered on: 25th May, 2023

MAT.APP.(F.C.) 154/2023

\+ MAT.APP.(F.C.) 154/2023

SURESH ..... Appellant

versus

RAKHI ..... Respondent

Advocates who appeared in this case:

For the Appellant: Mr. Suraj Yadav with Mr.D.B. Yadav, Advocates.

For the Respondent: None.

CORAM:-
HON'BLE MR. JUSTICE SANJEEV SACHDEVA
HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL. 28342/2023 (exemption)

Exemption allowed subject to all just exceptions.

MAT.APP.(F.C.) 154/2023 & CM APPL. 28340/2023 (stay), 28341/2023 (for condonation of delay)

1. Appellant impugns order dated 22.03.2023 whereby the Family Court has awarded maintenance at the rate of Rs.15,000/- per month to the respondent and two minor children.

2. Learned counsel for the appellant submits that the Family Court

has not correctly assessed the salary certificate wherein though the gross income is Rs.60,030/- but the net in hand salary is only Rs.33,315/-. He submits that he has mother and two sons from the previous marriage, who are to be taken care of.

3. We observe that the Family Court has noticed that despite several opportunities, the appellant had not filed his income affidavit and his right to file the same was closed. The Family Court has taken into account the salary certificate of the appellant for the month of December, 2022 wherein his gross salary has been shown as Rs.60,030/- and net pay as Rs.33,315/-.

4. From the salary certificate, it appears that the appellant is getting a sum of Rs.20,000/- deducted towards GPF contribution as against the basic pay of Rs.39,900/-. It appears that the appellant is voluntarily getting deducted a higher amount towards GPF contribution. Consequently, the net pay is reduced to Rs.33,315/- from the gross pay of Rs.60,030/-. The minimum statutory amount to be contributed towards GPF is 6%. Keeping that into account, if the deduction of only 6% was made, appellant would be entitled to draw a net pay of approximately Rs.50,000/-.

5. Even if the contentions of the appellant were to be taken into account that there are three dependents on his side, there are also three dependents on the side of the respondent. In case the apportionment of his income were to be done and one part each were to be awarded to each family member and two parts to the petitioner, the net in hand

salary of Rs.50,000/- would be divided by eight and then multiplied by three for the respondent, which comes to about Rs.18,750/- and the Family Court has only awarded a sum of Rs.15,000/-.

6. If we were to apply the above rule of apportionment, we find that the Family Court has appropriately assessed the maintenance for the three dependants. We may also note that the two sons on the side of the respondents are minor and school going and as such, the sum of Rs.15,000/- would be bare minimum required for their subsistence.

7. In view of the above and especially in view of the fact that appellant had failed to file any income affidavit before the Family Court, we find that there is no ground made out to interfere with the impugned order dated 23.02.2023 at the behest of the appellant.

8. We find no merit in the appeal. The appeal is consequently dismissed.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

MAY 25, 2023
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