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

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Judgment delivered on : 19.04.2023

+ **MAT.APP.(F.C.) 106/2022 & CM APPL. 31970/2022**

MOHIT TYAGI

..... Appellant

versus

MOHINI TYAGI

..... Respondent

Advocates who appeared in this case:

For the Appellant:

Mr. Sanjay Gupta, Advocate.

For the Respondent:

None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns order dated 16.06.2022 whereby interim maintenance of ₹ 20,000/- has been directed to be paid by the appellant to the respondent.

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2. Learned counsel for the appellant submits that the family court has erred in fixing the interim maintenance at ₹ 20,000/- per month. He submits that the family court should have first carried out an assessment of the income of the appellant prior to fixing any amount. He submits that the appellant is only earning only a sum of ₹ 60,000/- per annum from his agricultural land. He further submits that a study was conducted by the Institute of Economic Growth, Delhi with regard to the farmers in Uttar Pradesh and as per the report, the income that the farmers are earning from mango crops is about ₹ 2 lakhs per annum in an area of 7.5 acres. Learned counsel further submits that the family court has erred in taking into account the rental income of the properties owned by the mother for assessing the maintenance.

3. Respondent had filed the subject application seeking maintenance contending that the appellant owns agricultural land measuring about 50 bighas and has an income of approximately ₹ 60,000/- per month besides getting more than ₹ 50,000/- per month as rental income.

4. The family court in the impugned order has referred to a video which was produced by the counsel for the respondent before the family court wherein the appellant is claiming to having an income of Rs. ₹ 35 lakhs approximately every two years from the orchard, besides getting ₹ 35,000/- per month as rentals.

5. The family court has further noticed that the appellant was making contradictory statements, in as much as, it has noticed that the counsel for the appellant had submitted before family court that the land was purchased by the father of the appellant whereas in the affidavit it was stated that the land was ancestral.

6. Taking into account the overall facts and circumstances, the family court directed payment of Rs. ₹ 20,000/- per month from the date of filing of the application.

7. Before us also we notice that the contradictory statements have been made on behalf of the appellant. To begin with it was contended that mother of the appellant, who is alleged to be owner of the two properties in Vasant Kunj, was a mere housewife. On being probed further, it transpired that the father is alleged to have left all moveable and immoveable assets including bank accounts in favour of the mother of the appellant. It is contended that the mother was a nominee in the bank accounts and accordingly all amounts in the bank accounts were transferred in the name of the mother.

8. Learned counsel for the appellant initially contended that the mother was a housewife, however, subsequently stated that she was running probably a play school in Bijnor (Uttar Pradesh) where there were about 20 students.

9. We notice that the appellant has been taking contradictory

stands with regard to his income and the status of his family.

10. The family court has also noticed that the appellant has taken contradictory stand.

11. With regard to the video referred to in the impugned order, it is contended by learned counsel for the appellant that the video was not filed. However, the video is referred to in the impugned order.

12. On our asking, learned counsel played the video in Court which was available in his mobile phone. It is not disputed that the video is of the appellant and that he is saying that he earns about ₹ 35 lakhs from the orchard besides getting the rental income of ₹ 35,000/- per month. However, it is disputed by the learned counsel for the appellant that the video appears to be a partial clip out of a longer video and it has not been established as to whom the statement is being made or as to when it was made.

13. Be that as it may, we notice that the trial court has assessed the income at a very meagre amount and fixed only a sum ₹ 20,000/- per month for the respondent as interim maintenance.

14. Further, as noticed above the appellant has been making contradictory statements about his income and family status accordingly in the totality of the facts and circumstances, we do not find any ground to interfere with the impugned order.

15. In view of the above, we find no merit in the appeal. The appeal is consequently dismissed.

SANJEEV SACHDEVA, J

VIKAS MAHAJAN, J

APRIL 19, 2023
‘rs’

