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

% *Date of decision: 25th August, 2023*

+ **MAT.APP.(F.C.) 233/2023, CM APPL. 41756/2023, CM APPL. 41757/2023 & CM APPL. 41758/2023**

KULBIR SINGH

..... Appellant

Through: Mr. Rahul Sharma, Mr. Swapnil Jain,
Mr. Deepak Ghai and Mr. S.M. Popli,
Advocates with appellant in person.

versus

SANGEETA

..... Respondent

Through: Mr. Manjeet Mathur, Advocate with
respondent in person.
Daughter of the parties in person.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

SURESH KUMAR KAIT, J

1. The present appeal under Section 28 of Hindu Marriage Act, 1955 (*hereinafter referred to as 'HMA, 1955'*) read with Section 19 of the Family Court Act, 1984 has been filed against the Orders dated 11.04.2022 and 01.04.2023 vide which the interim maintenance for a sum of Rs.15,000/- has been awarded to the respondent/wife and her daughter, under Section 24 of Hindu Marriage Act, 1955.

2. The **facts in brief** are that the parties got married on 18.02.1999 and one daughter namely Miss Disha was born out of the said wedlock on



27.03.2000. The divorce petition has been filed by the appellant/husband in the year 2016 which is pending adjudication in the Family Court. The respondent/wife filed an application under Section 24 of the HMA, 1955 and after considering the rival contentions, it was observed that the appellant had disclosed his salary as 53,414/- in July 2018 and his income as per his Income affidavit dated 22.02.2022 was Rs.56,476/- per month. The appellant had explained his expenditure which included monthly instalment of Rs.17,618/- qua Housing Loan.

3. The respondent has explained her monthly expenses to be around 37,000/- per month which she claimed were being borne by her brother. Considering the fact that the appellant was having a good source of income from his Government job, learned Principal Judge, Family Court directed him to pay Rs.15,000/- to the respondent during the pendency of the divorce petition.

4. Thereafter, an application was filed by the appellant asserting that while granting a maintenance of Rs.15,000/- per month vide Order dated 11.04.2023, the expenses of the daughter were also included. However, he had spent about Rs.3,45,290/- till May 2021 on the expenses of the daughter and also that she was staying with him from March 2018 till July 2021. It was therefore, claimed that the maintenance order be accordingly modified to deduct the expenses of the daughter which have been borne by the appellant during the aforesaid period.

5. The learned Judge, Family Court while considering the contentions made by the appellant observed that the maintenance Order dated 11.04.2022 did not require any interference and the application was dismissed.



6. Aggrieved by the two Orders, the present appeal has been preferred.
7. **Submissions heard.**
8. It was not denied by the respondent/wife that the daughter had been in the custody of the father since March, 2018 till 18.02.2022 and all her expenses including educational expenses during this period, were borne by the appellant. The daughter was present in the Court who affirmed that her father has been taking care of her and supporting her in all aspects.
9. Considering the submissions made by the parties, the impugned Order of Maintenance dated 11.04.2022 is hereby modified to the extent that the maintenance payable to the wife shall be Rs.7,000/- per month from the date of filing of the application till the disposal of the Divorce petition.
10. The maintenance amount which has already been spent by the appellant on the expenditure of the daughter, shall be adjusted towards her maintenance amount for the said period. He shall clear the pending arrears @ Rs.7,000/- per month towards the respondent by paying Rs.7,000/- per month in addition to the monthly maintenance of Rs.7,000/- per month i.e. totalling to Rs.14,000/- per month to the respondent regularly till the previous arrears are cleared and thereafter he shall pay Rs.7,000/- per month as maintenance to the respondent. The respondent is admittedly taking care of all the expenses of the daughter and shall continue to do so in future till the disposal of the divorce petition or her marriage or till she starts earning whichever is earlier.
11. We expect from the learned Judge, Family Court to dispose of the pending Divorce petition in terms directions/guidelines issued by this Court in MAT. APP. (F.C.) 127/2023 titled as "*Smt. K.S. Sumi Mol vs. Sh. Suresh Kumar E.K.*" decided on 31.07.2023.



12. In view of the above, the appeal is accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 25, 2023/AT