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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of decision: 13th September, 2023***
\+ **MAT.APP.(F.C.) 152/2022**

UPINDER KAUR MALHOTRA ..... Appellant
Through: Ms. Nandini Sen, Advocate.

versus

TEGHJEET SINGH MALHOTRA ..... Respondent
Through: Ms. Gauri Gupta, Advocate.

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

J U D G M E N T ***(oral)***

1. An appeal under Section 28 Hindu Marriage Act, 1955 read with Section 19(1) of the Family Court Act read with section 151 of CPC has been filed against the common Order dated 05.08.2022 granting interim maintenance in three cases viz.:

(a) HMA 211/2019 (Sqn. Ldr. Teghjeet Singh Malhotra vs. Upinder Kaur Malhotra), filed under Section 13(1) (ia) of HMA;

(b) HMA 596/2019 (Upinder Kaur Malhotra vs. Capt. Teghjeet Singh Malhotra) filed under Section 13 (1)(i) and (i-a) of HMA; and

(c) HAMA No.6/19 (Upinder Kaur Malhotra V. Capt. Teghjeet Singh Malhotra) filed under Section 18 of the Hindu Adoption and Maintenance Act.

2. The appellant/ wife in all the three cases had sought interim maintenance under Section 24 of HMA and under Section 18 of Hindu Adoption and Maintenance Act in the sum of Rs.2.25 lakhs.

3. The learned Principal Judge, Family Courts, after considering the

rival contentions of the parties had granted an amount of Rs.50,000/- per month to the wife with Rs.30,000/- as litigation expenses in case HMA 211/2019 and no further independent maintenance in the other two cases.

4. It is asserted that the parties got married on 06.06.1992 according to Hindu customs and rites. The respondent/ husband was a commissioned Pilot Officer in Indian Air Force. The appellant/ wife had just finished her graduation and was only 21 years old when she got married to the respondent. One son and one daughter who were aged 28 and 26 years at the time of passing of the Order are both independent and supporting themselves. The appellant had asserted that after her marriage in 1992 she had gone to her present residence in Vasant Vihar, New Delhi which belonged to her father-in-law and is her matrimonial home. Her father-in-law was a retired Air Vice Marshal while the mother-in-law was a school teacher with the qualification of MA, LLB. Both the parents-in-law are now pensioners and the only sibling/ sister of the respondent had died in the year 2009.

5. It was submitted by the appellant that the respondent/ husband had resigned from Air Force on 01.01.2004 and joined Civil Aviation in April, 2004 with Deccan Air Lines which subsequently got merged with Kingfisher. Thereafter, he joined Sri Lankan Air Lines in 2011 and then Saudi Air Lines in 2013 and ever since has been an NRI. His monthly income in 1990's was about Rs.27,392/-. His salary from time to time has increased and the life style also changed which adversely impacted the peace and harmony of the family. In January, 2016 his salary became about Rs.13,40,314.04. On the other hand, the appellant had no independent income. Since her marriage in 1992 she has given all her time to her family,

raised the children and taken care of elderly relatives. The disputes arose between the parties in 2017, though the behaviour of the respondent had changed towards the appellant since the end of 2014 when she had found evidence on digital gadget about the third person having deeply entered into their marriage. The relations having become sour, the respondent filed HMA No.211/2019 under Section 13 (1)(ia) for divorce on the ground of cruelty. Thereafter, the appellant also filed a divorce petition under Section 13 (1)(i) and (i-a) of HMA.

6. The household management was taken out of her control and there was a threat of her eviction from her matrimonial home which was in the name of her in-laws. Left with no income and money, she filed an application under Section 24 of HMA. She also filed a petition under Section 18 of HAMA for Maintenance aside from Section 24 application in both the divorce petitions. The Income Affidavits were filed by both the parties. The bank details and the Assets Statement of the respondent revealed that in the year 2021 he was having a annual income of Rs.1,32,32,145.07. While the applications were pending, the respondent/ husband was directed to pay ad-interim maintenance @ Rs.25,000/- per month in case HMA No. 596/2019 vide Order dated 03.03.2021.

7. The appellant/ wife was found to be having an income of Rs.21,000/- per month from interest on the Bank FD's and Post Office deposits. The respondent had contended that he had his personal liabilities of paying the rent which was Rs.60,000/- per month in addition to payment of EMIs of SR 14759 towards the Apartments bought for the children. In addition, he had spent USD 2 lakhs on the education of the children. He is also paying Medical Insurance for himself and the children, in addition is giving

Rs.1,50,000/- per month to the children. He also has to pay a tax @ 15%. In addition, he had joint Bank Account with his daughter and that he is also paying money to the children and also taking care of the household expenses of his own as well as of his parents.

8. The learned Principal Judge, Family Courts observed that though the respondent has an income but he also has his own personal liabilities by way of payment of premium of Health insurance for himself and his children and also for payment of ECHS Card. In addition he had also been paying Rs.1,00,000/- to the children for their entertainment and pocket money. In addition, all the other needs of the children are also being taken care of by the respondent. The learned Principal Judge, Family Court considering the earnings of the respondent and also that he has been discharging his responsibility not only towards his children but also his parents in addition to meeting his liabilities; considering the income of the appellant from her FDRs, granted an interim maintenance in the sum of Rs.50,000/- per month to the appellant. It was further observed that in case the appellant is evicted, she may seek enhancement of her maintenance for arranging rental accommodation. In addition, Rs.30,000/- towards litigation expenses were also awarded to the appellant. Aggrieved, the present Appeal has been preferred.

9. Essentially the contentions of the appellant are that she got married to the respondent at a very young age of 21 years and she had sacrificed her employment opportunities for nurturing family, rearing children and for taking care of the elderly members of the family. Considering the financial status and monthly income of the respondent and also her corresponding needs she may be granted enhanced payment in the sum of Rs.2.25 lakhs per

month.

10. **Submissions heard**.

11. Admittedly, the respondent is well placed in Civil Aviation and have an income of about Rs.8 lakhs per month. The respondent, however, has admittedly been taking care not only of the day to day needs and requirements of the two children and paying about Rs.1 lakh per month to them, but is also taking care of all the educational and financial needs and requirements of the children. In addition, he also has the responsibility of his parents. Moreover, he has his own personal expenses including the payments of insurances, loans, tax etc. It cannot be ignored that he has bought one house each for the two children and is paying the EMI against the said two properties. Furthermore, the appellant is residing in the matrimonial home and all the day to day requirements including electricity, water, grocery etc, are all being borne by the respondent. In addition to this, Rs.50,000/- per month have been awarded to the appellant which is more in the nature of pocket money as all other expenses are being taken care of by the respondent.

12. In this backdrop we find no infirmity in the Order of learned Principal Judge, Family Court granting maintenance in the sum of Rs.50,000/- per month to the appellant, and the appeal is hereby dismissed.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 13, 2023/va