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

% ***Date of decision: 26th September, 2023***

+ **MAT.APP.(F.C.) 184/2016**

KUSUM SHARMA @ SUDERSHAN SHARMA Appellant
Through: Mr. Anil K. Verma, Advocate.

versus

KULDEEP SHARMA Respondent
Through: Mr. Ashish Kapur & Mr. Anmol
Kapur, Advocates with respondent 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)

1. The present Appeal under Section 19 of the Family Courts Act, 1984 has been filed on behalf of the appellant against the Order dated 19.10.2016 passed by the learned Principal Judge, Family Courts, West Rohini, Delhi, whereby the Application under Section 24 of the Hindu Marriage Act, 1955 (*hereinafter referred to as "HMA, 1955"*) filed by the appellant/wife claiming interim maintenance, has been dismissed.
2. The Petition under Section 13(1)(ia) of the HMA, 1955 seeking divorce had been filed by the respondent/husband.
3. The appellant/wife on receiving the Notice appeared in the Court and filed the Application under Section 24 of the HMA, 1955 claiming *pendete lite* maintenance in the sum of Rs. 2,00,000/- per month, besides litigation



expenses on the ground that the respondent/husband was the owner of Hotel Hill Height Pvt. Ltd., District Hamirpur, Himachal Pradesh and also agricultural land at Chountra, Hamirpur, Himachal Pradesh and was maintaining two cars and had a high standard of living. In addition, the respondent/husband also maintains a lady, Ms. Rajni and had purchased the property worth crores on her name. The respondent/wife was living a life of luxury and was even paying school fee of the children born from Ms. Rajni.

4. It is claimed that the respondent/husband maintained two drivers, two maid servants and had jewellery worth lakhs of rupees which was purchased from M/s Shyam Jewellers, Tilak Nagar, Delhi.

5. The appellant/wife worked as the Director in the Hotel Hill Height. However, the Managing Director of the Hotel Hill Height, who is a friend of the respondent/husband, on coming to know *inter se* litigation between the appellant and the respondent, stopped paying anything to the appellant and also removed her from the Directorship. The appellant/wife had also disclosed that she was holding shares in the Hotel Hill Height, Manali, but she was having no source of income therefrom, as no dividend was being paid. Since then, the appellant has no source of income, except her own money which she had deposited in the banks and has an earning of Rs. 9,107/- per month. The appellant/wife had taken friendly loans from her relatives to pay for the educational fee of her daughter and also for their maintenance. The appellant/wife had also taken a loan of Rs. 10,25,000/- from Celestine Jain. She also had given a loan of Rs. 16,25,925/- to the respondent/husband which has not been returned.

6. The learned Principal Judge, Family Court observed that admittedly, the appellant/wife was holding some amount of shares in the Hotel Hill



Height and no justifiable explanation was given as to how her income has stopped from the shares. Further, the appellant/wife had been maintaining herself and also the daughter and also paying for their expense which bellies the contention of the appellant/wife that she had no source of income. In these circumstances, it was concluded that the appellant/wife has concealed her income and material information. The appellant/wife had been earning since prior to the institution of the Petition under Section 13(1)(ia) of HMA, 1955 which indicates her ability and capacity to earn.

7. Relying upon the decision of this Court in Rupali Gupta vs. Rajat Gupta MAT.APP. (F.C.) 143/2014 decided on 05.09.2016, wherein the maintenance was denied to the qualified wife, the learned Principal Judge, Family Court concluded that the appellant/wife was not entitled to any *pendente lite* maintenance. However, the respondent/husband was directed to bear the educational expenses and to reimburse the fee paid to IILM College of the daughter and to further continue to pay till she obtains the degree from the college, if not already obtained and the child becomes capable of supporting herself.

8. Aggrieved, the present Appeal has been preferred by the appellant/wife.

9. **Submissions heard.**

10. Admittedly, the appellant/wife was working as one of the Directors in the Hotel Hill Height from where she was getting a salary.

11. It was claim of the appellant/wife that since the Hotel Hill Height was owned by the respondent/husband and the Managing Director of the said Hotel was his friend, however, as the litigation commenced between the parties, the Managing Director of the said Hotel stopped paying her any



salary.

12. The appellant/wife had placed on record her Bank Statements from the year April, 2012 till April, 2014, wherein the balance reflected in her bank account was of Rs. 7,04,210.60/-. The Bank Statement of the period thereafter has not been placed on record to reflect that she had no income. Income Tax Returns for the Years 2011-12, 2012-13 reflect an income in the sum of Rs. 2,28,000/- per annum and Rs. 3,60,000/- per annum respectively. But in the subsequent Income Tax Return of the Year 2013-14, the sum is Rs. 58,240/-.

13. According to the appellant/wife, no money was being given by the respondent/husband towards the maintenance and that of their daughter. However, it is not denied by her that she has been maintaining herself and the daughter from 2013, the educational expenses are also being borne by her. The learned Principal Judge, Family Court has noted that considering the background of the parties, it is difficult to accept that the appellant/wife may not have been able to survive and meet her expenditure as well as that of the daughter, unless she had some source of income. The appellant's claim that she had been taking friendly loans or that she had taken a loan of Rs. 10,25,000/- from Celestine Jain was not believable. No documentary proof of taking loans from the friends and relatives from time to time has been placed on record by the appellant/wife, nor has she been able to explain how she has been sustaining herself for all these years. It, therefore, shows that the appellant/wife has not been honest in disclosing her true source of incomes.

14. Moreover, during the course of the arguments, it was pointed that the house in Ashok Vihar is in the possession of the appellant/wife. The shares



that the appellant/wife was holding, have been stated to be recently sold by her for the sum of Rs. 91,00,000/-. These assertions have not been denied by the appellant/wife.

15. It is significant to note that while maintenance has been denied to the appellant/wife, but the respondent/husband has been directed to meet all the educational expenses of their daughter till she completes her education and becomes capable of sustaining herself.

16. Accordingly, we find that the appellant/wife is a woman of means and has assets and has a source of income which she has not disclosed truthfully as observed by the learned Principal Judge, Family Court and she has not been forthcoming in disclosing her income. In these circumstances, we find no error in the impugned Order dated 19.10.2016 declining any maintenance to the appellant/wife.

17. For the foregoing discussions, the present Appeal is dismissed as being without any merit.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 26, 2023
S.Sharma