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

% *Date of Decision: 07.02.2024*

+ **MAT.APP.(F.C.) 46/2024 & CM APPLs.7431-33/2024**

ABHISHEK SRIVASTAVA Appellant

Through: Mr A K Bhambri, Adv.

versus

SHRUTI SRIVASTAVA Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (Oral):

CM Appl.7432/2024

1. Allowed, subject to just exceptions.

MAT.APP.(F.C.) 46/2024 & CM APPLs.7431, 7433/2024

2. This appeal seeks to assail an ad-interim order dated 01.09.2023 passed by the learned Family Court, Karkardooma Courts, Delhi.

2.1 *Via* the said order, the Family Court has directed the appellant/husband to pay an interim maintenance amounting to Rs.25,000/- per month to the respondent/wife.

3. Mr A. K. Bhambri, learned counsel, who appears on behalf of the appellant/husband, says that this court should intervene with the impugned order for the following reasons:

(i) The impugned order was passed while lawyers were on strike, *albeit* after hearing the parties in person.



- (ii) The respondent/wife is pursuing her Ph.D. and is earning a stipend of Rs.27,000/- per month.
 - (iii) The appellant/husband is burdened with liabilities due to loan taken by him, which he has to repay in instalments. This aspect should have been factored in by the Family Court before passing the order for interim maintenance.
4. We may note that the following facts are not disputed by Mr Bhambri:
- i) That the appellant/husband is working in the State Bank of Mauritius India Ltd and earns a gross salary of Rs.1,38,000/- per month. The appellant's/husband's take home salary is Rs.78,000/- per month.
 - ii) The couple has a minor daughter from the wedlock.
 - iii) The father of the appellant/husband receives pension.
5. Therefore, having regard to the aforementioned undisputed facts, according to us, the ad-interim maintenance fixed by the Family Court is reasonable, especially so, as the respondent/wife is not working and only receives a stipend. Being a student, the respondent/wife would require funds to expend on books and other day-to-day expenses.
6. The appellant/husband, concededly, earns salary, as indicated above, amounting to Rs.1,38,000/- per month and a take home salary of Rs.78,000/- per month.
7. Since the respondent/wife has to look after her needs as well as the needs of the minor child, an ad-interim maintenance of Rs.25,000/- per month seems reasonable.
8. In any event, a perusal of the impugned order shows that the Family Court has directed the disputants to file their respective affidavits of income,



along with the statement of bank accounts, for the preceding three (03) years.

8.1 If and when such affidavits are filed, the Family Court will surely take a final view in the matter.

9. The argument of Mr Bhambri that the court could not have passed the impugned order because the lawyers were on strike does not impress us since the parties appeared in person and did not object to the proceedings being taken up by the Family Court. None of the facts noticed above are disputed. Nothing has been shown to us, which would suggest that the non-appearance of the appellant's/husband's lawyer adversely impacted his interest.

9.1 Thus, the order cannot be disturbed on this score.

10. The delay in approaching the court is suggestive of the fact that the appellant/husband is taking a chance by approaching this Court in the hope that the impugned order would be interfered with. Notably, even according to the appellant/husband, the appeal is delayed by nearly 100 days.

11. The trial court has broadly looked at the income of the disputants and in our view, reached a reasonable conclusion with regard to the ad-interim maintenance.

12. The appeal is, accordingly, dismissed on merits.

13. Consequently, the application is closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

FEBRUARY 7, 2024/pmc