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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAT.APP.(F.C.) 149/2024**

SH RAMAN ARORA

..... Appellant

Through: Mr Shubham Pandey and Ms Vishakha
Saluja, Advocates.

versus

SMT SHALU

..... Respondent

Through: Mr Arshad Ali, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

02.05.2024

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

C.M. No. 25537/2024 *[Application filed on behalf of the appellant seeking
condonation of delay in filing the appeal]*

1. This application has been filed on behalf of the appellant seeking
condonation of delay in filing the appeal.

1.1 According to the appellant, there is a delay of 15 days.

2. Issue notice.

2.1 Mr Arshad Ali, Advocate accepts notice on behalf of the respondent.

2.2 Mr Ali says that he would have no objection if the delay is condoned.

3. It is ordered accordingly.

4. The application is disposed of.

MAT.APP.(F.C.) 149/2024

5. This appeal is preferred against the judgment and order dated
27.02.2024.

MAT.APP.(F.C.) 149/2024

Page 1 of 3



5.1 *Via* the impugned judgment, the learned Family Court Judge disposed of the application preferred by the appellant for condonation of delay in filing the review application *qua* orders dated 27.09.2019 and 15.01.2020.

6. Issue notice.

6.1 Mr Ali accepts notice on behalf of the respondent.

7. With the consent of counsel for the parties, the appeal is taken up for final disposal at this stage itself.

8. The record shows that *via* order dated 27.09.2019, the learned Family Court Judge had enhanced the interim maintenance for both the respondent and the child from Rs 8,000/- to Rs 10,000/-.

9. To be noted, it is the appellant's case that at the hearing held before the Family Court, he had voluntarily offered to pay the interim maintenance @ Rs 5,000/- per month.

9.1 This amount was enhanced on 18.05.2018 to Rs 8,000/- and as noticed above, *via* order dated 27.09.2019 to Rs 10,000/-.

10. Mr Shubham Pandey, counsel who appears on behalf of the appellant, says that while the appellant has no objection to the interim maintenance being enhanced to Rs 10,000 per month, the grievance that the appellant has, is with regard to the observations made in paragraph 14 of the impugned order, which is suggestive of the fact that the marriage was never consummated as the child was born by taking recourse to the Intra Uterine Insemination (IUI) methodology.

11. It is not disputed by Mr Pandey that the divorce petition filed by the appellant is now listed for cross-examination before the Family Court on 27.05.2024.

MAT.APP.(F.C.) 149/2024

Page 2 of 3



12. Mr Ali says that he would have no objection if the Court were to observe that whether the marriage was consummated or not, would be a subject matter of the divorce petition.

13. Accordingly, the appeal is disposed of with the direction that the observations made in paragraph 14 of the impugned judgment will not impact the outcome of the divorce petition. Insofar as the aspect concerning the consummation of marriage is concerned, it would be governed by the evidence led in the matter.

14. Furthermore, we make it clear that the question of law with regard to the merger of order has not been examined in the light of what has been submitted before us by Mr Pandey.

RAJIV SHAKDHER, J

AMIT BANSAL, J

MAY 02, 2024

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Click here to check corrigendum, if any