$~31 & 32

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

31.

\+ CRL.M.C. 5229/2023 AND CRL.M.A. 19897/2023 & CRL.M.A. 4739/2024

ANAMIKA DHALL .....Petitioner

Through: Mr. Mukesh Gupta, Mr. Raghav Gupta and Mr. Rohit, Advocates.

versus

NITIN DHALL .....Respondent

Through: Mr. Nishant Anand, Ms. Gunajan, Ms. Ritu Gaur and Ms. Kanika Gupta, Advocates.

32.

\+ CRL.M.C. 6892/2023 and CRL.M.A. 25771/2023 STAY

NITIN DHALL .....Petitioner

Through: Mr. Nishant Anand, Ms. Gunajan, Ms. Ritu Gaur and Ms. Kanika Gupta, Advocates.

versus

ANAMIKA DHALL .....Respondent

Through: Mr. Mukesh Gupta, Mr. Raghav Gupta and Mr. Rohit, Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

<u>O R D E R</u>

% 18.07.2024

<u>CRL.M.C. 5229/2023 AND CRL.M.A. 19897/2023 & CRL.M.A. 4739/2024</u>

1. By way of the present petition the petitioner has assailed the order dated 12.05.2023 passed by the learned ASJ in an interim application seeking maintenance in proceedings initiated under DV Act.

2. Pertinently, the proceedings in the application filed under DV Act are pending before the Mahila Court and the impugned order pertains only to the payment of school fee of the minor child. The parties have been separated since December 2019.

3. It is the case of the petitioner that initially, the entire responsibility of payment of school fee of the minor child was shouldered by the respondent but vide the impugned order, learned Sessions Court has directed the parties to jointly pay the school fee in equal proportion.

4. Learned counsel for respondent, on the other hand, while defending the impugned order contends that the husband is unable to pay the entire school fee in view of his altered financial circumstances. In this regard, an application has also been filed before the learned Trial Court thereby seeking directions for changing the child's school.

It is further submitted that the respondent is also paying Rs.5000/- per month towards monthly maintenance for the child in pursuance of the order dated 19.11.2020 passed by Ld. Family Court in the maintenance petition filed by the petitioner. A sum of Rs. 10,000/- is also being claimed to be paid towards rent.

5. Pertinently, the impugned order came to be passed after considering the ITRs that were filed on the record by the parties. The order records that while the petitioner's ITRs showed that her income was considerable, the respondent's ITR showed steady decline in his income post Covid. Admittedly, the parties are complying with the impugned directions and the application for interim maintenance is still pending consideration before the Mahila Court. The respondent's application for changing the child school is pending before the Court. The connected petition being CRL.M.C.

6892/2023 has been field seeking directions for early disposal of the said application. It is informed that another application filed by the respondent relating to school fee is also pending before the Mahila Court.

6. Having examined the impugned order and in light of the ITRs filed by the parties before the ld. Mahila Court as well as the fact that various applications are pending consideration concerning the school fee, this Court finds no ground to interfere with the impugned order and the present petition is disposed of alongwith the pending applications with the direction that both parties without prejudice to their rights and contention, shall continue to comply with the impugned order passed by the learned Sessions Court till the aforenoted applications are considered and disposed of by the Mahila Court.

7. It shall also be open to the parties to seek variation of the order from the concerned Court subject to filing of any additional documents/changed circumstances.

8. Needless to state that the observations made herein are only for the purpose of the disposal of the interim directions. The rights and contentions of the parties shall remain open.

<u>CRL.M.C. 6892/2023 and CRL.M.A. 25771/2023</u>

In the aforesaid terms, the petition along with pending application stand disposed of.

MANOJ KUMAR OHRI, J

JULY 18, 2024/p