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

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*Decision delivered on: 05.08.2024*

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**MAT.APP.(F.C.) 246/2024, CM No.44393-95/2024 & 44458/2024****HARSIMRAN SINGH**

.....Appellant

Through: Mr Rohit Nagpal and Mr Deepak  
Sain, Advs. along with appellant *via*  
V.C.

versus

**PREETI KHANNA ALIAS PREET KAUR****ALIAS PREETI KHANNA**

.....Respondent

Through: Mr Vikas Manchanda and Mr Shivam  
Kapoor, Advs. along with respondent.**CORAM:****HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (ORAL):**

1. This appeal is directed against the judgment and order dated 13.10.2023, passed by the family court.
2. *Via* the impugned judgment and order, the family court has disposed of the application filed by the respondent under Section 24 of the Hindu Marriage Act, 1955 [in short, "1955 Act"].
3. While ascertaining the financial wherewithal of the appellant, the family court has, *inter alia*, made the following observations:



“13. In the present case, it is shown that there are deposits of Rs. 1.7 crore in two bank accounts of the non-applicant/husband from the period of 01.10.2020 to 03.11.2021. Deposit Rs.48.27 lakhs, Rs.68 lacs, Rs. 15 lacs in both the accounts received from KYC AML FEMA, cash deposit in both accounts more than Rs.58 lacs. Gym charges totalling Rs.3,83,655/- paid by the petitioner, deposit of Rs.5,75,000/- in ICICI bank, deposit of Rs.9,00,000/- deposited in SCB bank, EMI of Rs.40,000/- paid by petitioner totalling Rs.14,80,000/-, EMI of Rs.7216/- paid by petitioner to IDFC Part-I totalling Rs.3,57,402, EMI of Rs. 1 lac and in past have paid Rs.2 lacs as EMI, Rs.24,79,355/- being paid by petitioner through banks. Litigation charges as Rs.5 lacs out of which Rs.50,000/- have been paid.

14. During arguments, both the parties attempted to do an audit analysis of bank account statement and pointed out details of deposit etc. For the sake of brevity this court has not going into the minute details of all these statement and hold a mini trial at this stage as disputed question of fact would be considered during trial. What is worth noting is that in the written submissions and the replies husband has not disputed about the requirement of the maintenance her monthly expenses, owing of the properties.

15. As far as joint properties are concerned, it is not the case of the non-applicant that applicant had invested the money from her earnings. It is not disputed about the payment of EMI of the husband and the money spent on gym by the husband. Para 19 of the application has not been specifically denied wherein applicant has given details of her expenditure. Thus, there is no specific denial of about applicant's expenditure of Rs.46900/- per month. It is worth noticing that non-applicant has apart from denying the averment of application has not disclosed his own actual income or complete and true disclosures which he was supposed to make while denying the averments.”

4. A perusal of the observations made in paragraph 13 of the impugned order clearly reflects that the appellant has the financial wherewithal to provide maintenance to the respondent during the pendency of the divorce action.

4.1 The other aspect that emerges is that there is, as noted by the family court, “no specific denial” of the respondent’s monthly expenditure *qua*



which she made an assertion. The respondent seems to have indicated in the application preferred under Section 24 of the 1955 Act that her monthly expenditure is Rs.46,900/-.

4.2 Besides this, the family court has returned a finding that the appellant has not fully disclosed his actual income or made complete disclosure while denying the assertions made by the respondent in the application preferred under Section 24 of the 1955 Act. Therefore, the family court has resorted to a reasonable estimate measure as regards the appellant's income. According to the family court, the appellant should be earning, approximately, Rs.1.50 lakhs per month.

5. It is against this backdrop that the family court has directed the appellant to pay Rs.45,000/- per month to the respondent as maintenance under Section 24 of the 1955 Act.

6. Concededly, this appeal has been filed, even according to the appellant, after a delay of, nearly, 199 days. The appellant has happily suffered the order for this period.

7. On being queried, Mr Rohit Nagpal, learned counsel, who appears on behalf of the appellant, says that the delay in approaching the Court occurred on account of the fact that the earlier counsel engaged in the matter did not take expeditious steps in lodging the appeal.

7.1 This excuse is as old as the hills. To say the least, the excuse is lame, often put forth by the counsel on behalf of their clients.

8. What is disturbing, something which has been brought to the fore by the learned counsel for the respondent is that in the list of dates filed with the appeal, there is no reference to the ensuing execution proceedings.



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8.1 In the execution proceedings, i.e., Ex.No.3/2024, several orders have been passed by the concerned court, commencing from 18.01.2024. The hard copy of the orders dated 18.01.2024, 16.02.2024, 02.03.2024, 27.03.2024, 12.04.2024, 25.04.2024, 08.05.2024, 20.05.2024, 03.06.2024 and 10.07.2024 have been placed before us by the learned counsel for the respondent.

9. According to the learned counsel for the respondent, as on July 2024, approximately, Rs.11,75,000/- is payable by the appellant towards arrears of maintenance.

10. These are the aspects which we are sure that the executing court will take into account.

11. Thus, for the foregoing reasons, we are not inclined to interfere with the impugned judgment and order.

12. The appeal is, accordingly, dismissed. Consequently, the pending applications shall stand closed.

13. The parties will act based on the digitally signed copy of the order.

**RAJIV SHAKDHER, J**

**AMIT BANSAL, J**

**AUGUST 5, 2024**

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