



2024:DHC:7378-DB



\$~41

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

%

Date of decision: 17.09.2024+ **MAT.APP.(F.C.) 305/2024****JASMINE CHADHA**

.....Appellant

Through: Appellant in person.

versus

TEJPAL SINGH

.....Respondent

Through: Mr Sandeep Aggarwal, Sr. Advocate
with M r Jagjit Singh, Mr Preet Singh
and Mr Rahul Khan, Advocates.**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. 54126/2024**

1. This is an application moved on behalf of the appellant seeking permission to file a list of dates beyond the prescribed number of pages.

2. Given the reasons articulated in the application, the prayer made therein is allowed.

3. The application is, accordingly, disposed of.

MAT.APP.(F.C.) 305/2024 and CM APPL. 54127/2024 [Application filed on behalf of the appellant seeking condonation of delay of 18 days in filing the appeal]

4. This appeal is directed against the judgment and order dated 15.05.2024 passed by the executing court in Execution Petition nos.

Signature Not Verified

Digitally Signed By: PREM
MOHAN CHOUDHARYSigning Date: 24.09.2024
15:59:32

MAT.APP.(F.C.) 305/2024

Page 1 of 3



108/2019, 109/2019, 110/2019, 111/2019, 112/2019, 113/2019, 114/2019, 72/2021, 73/2021, 159/2022 and 131/2023 titled *Jasmine Chadha v. Tejpal Singh*.

4.1 The impugned judgment and order came to be passed by the executing court in the backdrop of the following broad facts.

5. The appellant had triggered proceedings for grant of maintenance under Section 23 of the Protection of Women from Domestic Violence Act, 2005 [in short “DV Act”], and also under Section 125 of the Code of Criminal Procedure, 1973 [in short “Cr.P.C.”].

6. The concerned Judge passed two separate orders of even date i.e., 31.01.2011. In both orders, interim maintenance was granted to the appellant at the rate of Rs.30,000/- per month.

6. It is not in dispute that both sides carried the matter in appeal.

7. The disputants preferred revisions/appeals against the order passed under Section 23 of the DV Act as well as the order passed under Section 125 of the Cr.P.C.

7. The learned Addl. Sessions Judge [ASJ], *via* two orders of even date, i.e., 14.12.2012, dismissed the revisions and appeals preferred by both disputants.

8. The appellant contends that she is entitled to two sets of maintenance at the rate of Rs.30,000/- per month.

9. The executing court has disagreed with this contention of the appellant.

10. The record discloses that both while passing the orders dated 31.01.2011 and the orders which were passed by the learned ASJ on 14.12.2012, the financial wherewithal of the respondent was gone into.



Ultimately, a finding returned was that the income of the respondent ranged between Rs.70,000/- to Rs.75,000/- per month.

7.1. Given this position, the executing court, *via* the impugned judgment and order, concluded that the appellant was misreading the order dated 31.01.2011 by claiming maintenance twice.

8. The appellant, who appears in person, submits that the executing court could not have gone behind the judgment and order dated 31.01.2011. In other words, the impugned judgment and order was without jurisdiction.

8.1 As per law, the appellant is correct that the executing court cannot go behind the judgment and order that it is called upon to execute. However, what cannot be disputed is that the same judge passed identical orders on 31.01.2011.

9. As noted above, the ASJ in criminal revision which dealt with one of the orders i.e., the order passed under Section 125 of the Cr.P.C. sustained the view taken in the order dated 31.01.2011 passed in the said proceedings.

10. Given the position that the financial wherewithal of the respondent is what is noted hereinabove, we are not inclined to interfere with the impugned judgment and order.

11. The appeal is accordingly closed. The pending application shall also stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

SEPTEMBER 17, 2024/tr