



\$~47

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ MAT.APP.(F.C.) 355/2024, CM APPL. 58992/2023-Stay, CM APPL.
9609/2024-Dir, CM APPL. 29049/2024-Addl.doc.
MANAT LAMBAAppellant

Through: Mr. Shaunak Kashyap, Ms. Parul
Tuli, Ms. Nistha Gupta and Mr. Anuj
Panwar, Advs

versus

NIKHIL KAPURRespondent

Through: Mr. Prashant Mendiratta, Mr. Shikhar
Sareen, Ms. Somyshree and Mr.
Samar Pratap Singh, Advs alongwith
respondent in person

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER
28.10.2024

%

1. The present appeal has been listed before this Bench after being registered as MAT.APP.(F.C.) 355/2024, pursuant to the orders passed by the learned Single Judge in CM(M)-1873/2023 on 23.10.2024. A perusal of the said order shows that the learned Single Judge has, taking into consideration the recent decision of a Full Bench of this Court in ***Dr. Geetanjali Aggarwal vs. Dr. Manoj Aggarwal: 2024 SCC OnLine Del 7220***, of which one of us, namely Rekha Palli, J, was member held that the CM(M)-1873/2023 would no longer be maintainable and has, therefore, directed that the matter be registered as an appeal and be placed before the



Roster Bench. We may note that though in *Dr. Geetanjali Aggarwal (supra)* the Full Bench held that an appeal under 19 of the Family Courts Act would be maintainable under Section 12 of the Guardians & Wards Act, 1870 (G & W Act), no directions were issued in respect of the already pending CM(M)s.

2. Both sides inform us that when the aforesaid order directing the CM(M) to be registered as a MAT. Appeal was passed by the learned Single Judge, judgment in the matter had already been reserved. Learned counsel for the appellant/ petitioner, therefore, contends that the course of action adopted by the learned Single Judge was contrary to the decision of the Full Bench *Dr. Geetanjali Aggarwal (supra)*. Learned counsel for the respondent, however, contends otherwise.

3. Having considered the rival submissions and the decision in *Dr. Geetanjali Aggarwal (supra)*, we are of the view that the learned Single Judge, was not justified in directing that CM(M)-1873/2023, wherein orders had already been reserved, would not be maintainable in view of the decision of the Full Bench. We find that the decision in *Dr. Geetanjali Aggarwal (supra)* did not at all envisage that all pending petitions under Article 227 assailing orders passed under Section 12 of the G & W Act should also be treated as appeals. Therefore, in a case like the present, where judgment had already been reserved, there was no occasion for the learned Single Judge to direct that the CM(M) should be now treated as a MAT. appeal.

4. We, therefore, direct that, subject to orders of Hon'ble the Chief Justice, the matter be placed before the learned Single Judge on 29.10.2024 after being re-registered as a CM(M).



5. A copy of this order be given *dasti* under the signature of the Court Master.

REKHA PALLI, J

SAURABH BANERJEE, J

OCTOBER 28, 2024/Ab