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

+ **MAT.APP.(F.C.) 401/2024, CM APPL. 71067/2024-Exp, CM APPL. 71068/2024-Delay 1 day**

SUNIL GOUTAM

.....Appellant

Through: Mr.Jasbir Singh Malik, Ms. Rhythm Bhardwaj, Advocates

versus

SUNAINA BHARTIA

.....Respondent

Through: None

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

05.12.2024

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1. The present appeal seeks to assail the order dated 17.09.2024 passed by the learned Family Court in HMA NO.1357/2021. Vide the impugned order the learned Family Court has rejected the application filed by the appellant seeking modification of the order dated 23.02.2023 after noticing that the said order was passed on the basis of the appellant's own affidavit wherein his monthly income was reflecting as Rs.1,30,000/-, which it was now being claimed was incorrect as his monthly income was only about Rs.40,000/- instead.

2. Learned counsel for the appellant submits that while the appellant can have no grievance with this order, the fact remains that the appellant had also sought modification vide yet another application filed on 27.04.2024 wherein



he had prayed that the order dated 23.02.2023 be modified on account of the change in circumstances with there being a reduction in the income of the appellant. This application, he submits, has not even been considered by the learned Family Court.

3. From a perusal of the impugned order, we find that there is no reference to this application. When faced with this situation, learned counsel for the appellant seeks to withdraw the appeal with liberty to approach the learned Family Court for an order on the application dated 23.02.2023 whereby he sought modification of the order dated 23.02.2023 (Annexure A-8.)

4. In light of the aforesaid, the appeal, alongwith the pending applications, is disposed of as not pressed with liberty as prayed for. We, however, make it clear that this order will not be construed as any direction to the learned Family Court to decide the said application afresh, if in the perception of the learned Family Court the said application already stands rejected.

REKHA PALLI, J

SAURABH BANERJEE, J

DECEMBER 5, 2024/Ab