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

+ MAT.APP.(F.C.) 414/2024, CM APPL. 72246/2024-Delay 17 days

DURGESH SINGH

.....Appellant

Through: Mr. Mehul Sharma and Mr. Nagesh
Sharma, Advs.

versus

SUNITA ALAIS SIMRAN SINGH

.....Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

12.12.2024

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1. The present appeal under Section 19 of the Family Courts Act, 1984, which has been preferred by the appellant alongwith an application seeking condonation of 17 days delay in filing the appeal, seeks to assail the order dated 23.08.2024 passed by the learned Family Court, East District, Karkardooma Courts, Delhi in MT case No. 333/2019.
2. For the reasons stated therein, the application for condonation of delay of 17 days in filing the appeal is allowed and consequently, the appeal is taken up for consideration.
3. We find that vide the impugned order, the learned Family Court has, after assessing the monthly income of the appellant as Rs.1,00,000/-, directed the appellant to pay a sum of Rs.50,000/- to the two respondents i.e. the estranged wife and the minor son of the parties



towards their monthly maintenance.

4. These findings of the learned Family Court that the income of the appellant could be taken at least at Rs.1,00,000/- per month were based on the evidence led by the parties. The learned Family Court held that the fact that the appellant was leading a luxurious lifestyle, was also evident from the fact that the renowned Singer Mika Singh had come to perform at his wedding. The learned Family Court further observed that it was clear that the appellant had tried to conceal his actual income while filing his Income Tax Returns.
5. Before us, the only submission of learned counsel for the appellant is that even though the appellant was affluent when his father was alive, he is now working as a labourer and earning only about Rs. 10,000/- per month.. He, therefore, contends that the learned Family Court has grossly erred in presuming that the monthly income of the appellant was atleast Rs.1,00,000/- per month. The appellant, he submits is not shying away from discharging his liabilities towards the respondents but prays that the quantum of maintenance be reduced suitably so that the same is commensurate with his present income.
6. Having considered the submissions of learned counsel for the appellant and perused the impugned order, we find absolutely no reason to interfere with the findings recorded by the learned Family Court that the appellant was trying to conceal his true income or that his monthly income was atleast Rs.1,00,000/-. In this regard, it may be apposite to refer to the findings of the learned Family Court as contained in paragraphs no 17 to 19 of the impugned judgment, which read as under:



“17. Not only this, the petitioners have filed the documents Ex.PW1/14 to

Ex. PW1/19 to prove the properties of the respondent including agricultural land and the respondent has also admitted to be owner of the properties bearing no. B1/T1 and T2 besides an agricultural land measuring 2 Bighas in his share at his native village. He has been maintaining mobile phone and pistol and got admitted his son in a reputed school, having heavy school fees of Rs.14,050/- per month besides Rs.3,500/- transportation charges way back in the year 2019 and has admitted to be paying such school fees. The photograph of his marriage shows that film singer Mika attended his marriage. He filed his ITR during the financial year 2014-15 and showed his annual income @ Rs.3,02,240/- from a profession with cash amount in hand @ Rs.1,84,670/-, which increased to opening balance of Rs.48,61,670/- during financial year 2016-17 with salary payment to workmen was @ Rs.4,38,600/- with net profits of Rs.5,03,760/-, which suggests that the respondent is a person of means and doing business of construction as shown in the photographs. As such, income of the respondent may not be less than 1 lac per month but this case was filed way back in the year 2019 and income of the respondent might be lesser than today, due to on average basis, monthly income of the respondent considered @ Rs.1,00,000/- pm for determination of this maintenance.

18. Respondent has claimed dependency of his mother, whereas his mother has various properties and also getting family pension of her husband, who had been working in DDA. Even the brother (sic) of the respondent is also well to do and owner of various properties and bank balance, due to which (sic) he cannot be considered his dependents. As such, prime (sic) liability of the respondent is his wife and son.



19. The petitioner has claimed monthly expense of her son @ Rs.30,000/- per month, as minor is aged about 16 years and has been studying in Presidium school, which is also admitted by the respondent thereby stating that he was got admitted by his brother as guardian. However, it is not disputed that son has been studying in a prestigious school and having substantial school fees and transportation charges besides other charges. As such, monthly income of the respondent @ Rs.1,00,000/- has to be divided into 4 shares, out of which, two shares are to be kept for respondent and 2 shares for the petitioners.”

7. In the light of the abovementioned, these categorical findings arrived at by the learned Family Court, we find no reason to accept the appellant's bald statement that he is presently working as a labourer and earning a meagre sum of Rs.10,000/- per month, which amount we find is even lower than the minimum wages prescribed for unskilled labour in Delhi which, it is admitted to be Rs.17,234/- per month at present. This statement of the appellant that he is working as a labourer and drawing monthly salary of Rs.10,000/- cannot be believed especially when it is his own case that he is living in a joint family set up with his brother, who is running a well-established business
8. We are, therefore, of the considered view that the learned Family Court was justified in holding that the appellant's monthly income could be taken as atleast Rs.1,00,000/- and, therefore, he ought to pay a monthly sum of Rs.50,000/- to the two respondents by way of interim monthly maintenance.
9. For the aforesaid reasons, we find no infirmity with the impugned



order. The appeal being meritless is, accordingly, dismissed.

REKHA PALLI, J

SAURABH BANERJEE, J

DECEMBER 12, 2024/acm