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

+ CM(M) 4048/2024,

PARUL MAHAJAN OBEROI

.....Petitioner

Through: Ms. Charu Sangwan and Mr.
Shubham Dayma, Advocates.

versus

AMAN OBEROI

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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10.12.2024

CM APPL. 72423/2024 (exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

CM(M) 4048/2024, CM APPL. 72422/2024 stay & CM APPL. 72424/2024 (for requisitioning the TCR)

1. Petitioner is the respondent in the divorce petition filed by the respondent against her before the trial court.
2. Petitioner filed an application under Section 24 of the Hindu Marriage Act, seeking interim maintenance to the tune of Rs. 1 lakh per month. Both parties filed their affidavits of income and assets.
3. On 12.03.2024, respondent through his father, purported to be his Special Power of Attorney, filed an application seeking directions to the



petitioner to file copy of her passport. Respondent asserted that petitioner is a frequent traveller within India and abroad and has not filed any document to show as to who is bearing her expenses for foreign holiday.

4. Learned Judge, Family Court, by order dated 12.03.2024, was of the view that the passport of the petitioner is relevant for just decision of the application under Section 24 HMA and thus directed her to produce her passport on the next date of hearing with advance copy to the respondent at least one week before the next date of hearing.

5. Learned counsel submits that impugned order is violative of principles of natural justice. It is submitted that no advance copy of the application was served to the petitioner and the impugned order was passed without granting her an opportunity to file reply to the same. It is further submitted that petitioner's travel abroad is otherwise also irrelevant for the purpose of deciding the application under Section 24 HMA. The apprehension of the petitioner is that Family Court has already made up its mind that passport is a relevant document.

6. In matrimonial cases, maintenance is claimed on the ground that applicant has no independent income of its own or that such income is not sufficient to maintain the applicant with the same lifestyle as it was before the matrimonial discord. Since the monthly income of one party may not be within the knowledge of the other party, particularly when the relationship is strained and the spouses are living apart for a considerable period, this Court in the case of **Kusum Sharma Vs. Mahender Kumar Sharma, 2020 SCC Online Del. 931**, issued directions to the parties to file detailed affidavits of assets, income and expenditure for determination of their true income.



7. Learned counsel for the petitioner submits that the word used in Section 24 HMA is “income” and not “income and other property”, and therefore, while deciding an application under Section 24 HMA, the Court is required to have regard only to the income of the parties and not income from other sources.

8. The assertion of the respondent in the application under Section 151 CPC is that petitioner is a frequent traveller and therefore has income of her own. In order to verify such averment, Family Court in its wisdom directed the petitioner to produce her passport. Issuing such directions does not mean that trial court has accepted the contentions of the respondent of her income.

9. No prejudice is going to be caused to the petitioner in case she produces her passport, as it may be relevant for the purpose of throwing light on the income and financial capacity of the petitioner and thus be of help to the trial court in adjudication of application under Section 24 HMA.

10. Court is of the view that there is no merit in the present petition. Petition is accordingly dismissed.

RAVINDER DUDEJA, J.

DECEMBER 10, 2024

RM