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

+ **CM(M) 271/2025**

ANIL SONI

.....Petitioner

Through: Mr. Anurag Ahluwalia, Sr. Adv. with
Mr. Arindam Mukherjee, Ms. Gargi
Tuli, Mr. Abhishek Kumar and Ms.
Khushi Chhetri, Advs.

versus

NIDHI SONI

.....Respondent

Through: Mr. Ashutosh Dubey Ms. Rajshri
Dubey and Mr. Amit P.Shahi, Advs.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

11.02.2025

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CM APPL. 8004/2025 (EXEMPTION)

Allowed, subject to all just exceptions.

The application stands disposed of.

CM(M) 271/2025 & CM APPL. 8005/2025 (STAY)

1. This a petition under Article 227 of the Constitution of India seeking to challenge the order dated 17.12.2024 in HMA 45/2019 (Old Number HMA 333/2017) titled as 'Anil Soni Vs. Nidhi Soni' passed by learned Principal Judge, Family Court, Patiala House, New Delhi.
2. The factual background is that the petitioner filed a divorce petition under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 [HMA] on the



ground of cruelty. Respondent sought maintenance and litigation cost leading to the passing of a court order in 2020 directing the petitioner to pay monthly maintenance and school fee of the two children. Both the parties appealed and the matter was remanded to the Family Court while maintaining the original maintenance order with direction to the Family Court to decide the application under Section 24 of HMA for decision afresh. The relevant paragraph of the order dated 22.07.2021 passed by this Court is reproduced below:

“5. In the aforesaid circumstances, we are inclined to remand the matter back for re-consideration by the Court of the application preferred by the respondent wife under Section 24 and 26 of the HMA. The application preferred by appellant husband in MAT .APP .(F.C) 114/2020 shall also be taken up for consideration. However, in the meantime, the appellant husband shall continue to pay the maintenance as fixed under the impugned order, and shall also clear the arrears payable in terms of that order. We make it clear that unless the husband clears the entire arrears, and continues to make payment of the maintenance - as fixed under the impugned order, the Family Court shall not take up the applications for fixation of maintenance. The arrears shall be cleared before the next date of hearing fixed before the Family Court which, we are informed, is 04.10.2021. In case the arrears are not cleared, it shall be open to the respondent wife to proceed to execute the impugned order as passed.”

3. Respondent sought additional amount for the son's coaching fees. A proposal to rent a jointly owned property bearing Shop No. 30, First Floor, Commercial Block No.1, Paras Tiera, Group Housing Society, Noida was agreed upon by both the parties to cover the coaching expenses of the son.

4. In July 2023, the Family Court permitted the respondent to lease the property and as agreed the income was to be used for the coaching of the son. Further, by order dated 11.10.2023 the Family Court allowed the respondent to rent the property for 11 months period at rent of Rs.25,000/-



per month.

5. Upon termination of the lease, the respondent filed an application under Section 151 CPC for extension and continuation of the previous order dated 11.10.2023 till further orders, and for permitting the respondent to lease out Shop No. 30 on the terms and conditions finalized by the respondent.

6. Pursuant to the filing of the said application, the following order has been passed by the learned Family Court:

“17.12.2024

File taken up today on an application under Section 151 CPC moved on behalf of the respondent.

Present: Sh. Ashutosh Dubey and Sh. Amit P. Shahi, Ld. Counsels for the respondent.

Heard.

Order dated 11.10.2023 shall remain in operation till further orders.

Application stands disposed of accordingly.

Put up date already fixed i.e. 13.02.2025.”

7. The Learned counsel for the petitioner submits that the impugned order dated 17.12.2024 has been passed by the learned Family Court without even notice to the petitioner, and the said order has been passed at the back of the petitioner.

8. The perusal of the impugned order clearly reveals that no notice has been issued on the application to the petitioner, and no hearing has been granted to the petitioner thus, the aforesaid order has been passed in violation of the principles of natural justice.

9. Learned counsel for the respondent has no objection in case the matter be remitted to the Family Court with direction to give notice to the petitioner and for decision on the application afresh after hearing both



parties.

10. Learned counsel for the petitioner states that the Family Court has also not decided the application under Section 24/26 of HMA despite directions to dispose of the same by this Court and the said application is pending consideration since the last about two years. He submits that in the meanwhile, petitioner continues to pay maintenance to the respondent as per directions of this Court. He has made request that the Family Court be directed to dispose of all the pending applications within a time frame.

11. It is informed by learned counsel for the respondent that an application under Section 151 CPC filed by the respondent is also pending consideration before the learned Family Court, and therefore, direction for disposal of the said application in a time-barred manner be also issued.

12. Keeping in view the entire facts and circumstances as noted above, the present petition is disposed of with direction to the learned Family Court to dispose of all the pending applications including application under Section 151 CPC filed by the respondent after hearing both parties within four weeks. Both parties are at liberty to file respective replies to the pending applications before the learned Family Court within a period of one week.

13. Counsels for both the parties are requested to render their due cooperation to the learned trial court in expeditious disposal of the pending applications in a time bound manner.

14. Copy of this order be given *dasti* under the signatures of the Court Master.

RAVINDER DUDEJA, J

FEBRUARY 11, 2025/ib/fs