



2025:DHC:10564-DB



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

Date of Decision: 27.11.2025

+ MAT.APP.(F.C.) 189/2019, CM APPL. 32240/2019 and CM APPL. 63954/2025

KANIKA KANDHARI

.....Appellant

Through: Mr. Rajat Aneja, Mr. Anant Chaitanya Dutta, Ms. Anamika Bag Adv along with the Appellant in-person.

versus

RISHI KANDHARI

.....Respondent

Through: Mr. Ganesh Kumar Sharma and Mr. Siddharth Singh, Advs.

+ MAT.APP.(F.C.) 287/2019, CM APPL. 1657/2021, CM APPL. 13104/2022 and CM APPL. 47487/2022

KANIKA KANDHARI

.....Appellant

Through: Mr. Rajat Aneja, Mr. Anant Chaitanya Dutta, Ms. Anamika Bag Adv along with the Appellant in-person.

versus

RISHI KANDHARI

.....Respondent

Through: Mr. Ganesh Kumar Sharma and Mr. Siddharth Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T (O R A L)

ANIL KSHETARPAL, J.

1. Through the present Appeals, the Appellant impugns the correctness of two separate orders passed by the learned Principal

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NARAYAN
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MAT.APP.(F.C.) 189/2019 & connected matter

Page 1 of 4



2025:DHC:10564-DB



Judge (East), Family Courts, Karkardooma, Delhi in HMA No. 1461/2018.

2. Through MAT.APP.(F.C.) 189/2019, the Appellant assails the correctness of an order dated 28.03.2019, wherein an application filed by her under Section 24 of the Hindu Marriage Act, 1955 [hereinafter referred to as 'HMA'] was disposed of.

3. While deciding the aforesaid application, the Family Court directed the Respondent to bear the school fee and other school related expenses of the minor child. In addition to this, the Respondent was also directed to pay basic utilities charges, LIC premiums and EMI of the loan pertaining to the alleged jointly owned property. However, the Family Court has failed to quantify the maintenance amount in terms of money.

4. Through MAT.APP.(F.C.) 287/2019, the Appellant assails the correctness of an order dated 09.09.2019, wherein the Petition for Restitution of Conjugal Rights filed by her under Section 9 of the HMA was dismissed.

5. While dismissing the aforesaid Petition, the Family Court proceeded to record findings of the fact without granting opportunity to the parties to lead their evidence. In fact, it is surprising that the Family Court adopted this novel procedure which is not known to law.

6. Learned counsel representing the Respondent submits that on account of paralysis, the Respondent is unable to move and he will be required to produce medical record, hence, no trial of the Petition under Section 9 of the HMA is necessary.

7. This Court has considered the submissions of the learned counsel representing the parties and with their able assistance perused

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MAT.APP.(F.C.) 189/2019 & connected matter

Page 2 of 4



2025:DHC:10564-DB



the paper book.

8. As per the procedure prescribed, once issues are framed, the parties are required to be given adequate opportunity(ies) to prove their respective case. Such procedure is well established and even the Family Court Act, 1984 does not make any exception thereto. Moreover, before recording findings of fact, if opportunity to lead evidence is not given, it results in condemning someone without giving proper opportunity, which is antithetical to the principles of natural justice.

9. Similarly, while deciding application under Section 24 of the HMA, the Court is required to quantify the amount awarded. During the pendency of the present Appeals, Income Tax Returns (ITRs) of the Respondent and his father have also been placed on record.

10. Keeping in view the aforesaid discussion, the present Appeals are allowed. The Impugned Orders dated 28.03.2019 and 09.09.2019 are hereby set aside. The Petition under Section 9 of the HMA is restored to its original number.

11. The parties, through their respective counsel, are directed to appear before the Family Court on 05.12.2025.

12. The Family Court is directed to decide the application under Section 24 of the HMA afresh, after taking into consideration the material which has been produced before both this Court and the Family Court or which may be produced before deciding the application.

13. With respect to the Petition filed under Section 9 of the HMA, the Court is also directed to permit the parties to lead oral as well as documentary evidence before the proceeding to analyse the same and

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MAT.APP.(F.C.) 189/2019 & connected matter

Page 3 of 4



2025:DHC:10564-DB



decide.

14. In the meantime, the Respondent shall continue to pay expenses on an *ad hoc* basis @ Rs.50,000/- per month, as directed by the Coordinate Bench of this Court *vide* order dated 12.07.2024, till the application under Section 24 of the HMA is decided by the Family Court.

15. The present Appeals, along with the pending applications, stands disposed of.

16. A photocopy of the order passed today be kept in the connected matter.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 27, 2025

s.godara/dev

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MAT.APP.(F.C.) 189/2019 & connected matter

Page 4 of 4