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

+ **CRL.REV.P.(MAT.) 486/2025 & CRL.M.A. 32887-32888/2025**

AJAY GULIA

.....Petitioner

Through: Mr. Amit Saxena, Mr. Vasu Singhal,
Mr. Naveen Kumar, Ms. Kamlesh
Kumar Pandey, Ms. Priya Chauhan
and Ms. Shalini Mishra, Advocates.

versus

THE STATE AND ORS. & ORS

.....Respondents

Through: Mr. Hitesh Vali, APP for State along
with IO/SI Pankaj, PS Najafgarh.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

07.11.2025

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1. This revision petition is directed against the order dated 9th September, 2025 passed by the Family Court, South West, Dwarka, New Delhi in MT. Case No.12/2024, whereby interim maintenance of INR 15,000/- per month each has been awarded in favour of Respondents No. 2 and 3 (the two minor children).
2. The Petitioner is the biological father of the minor children, who were born from his first marriage. The Petitioner states that he has since remarried and is presently residing with his second wife. The children (Respondent Nos. 2 and 3) had approached the Family Court through their grandmother seeking interim maintenance of INR 50,000/- per month.



3. Upon consideration of the said application for interim maintenance, the Family Court passed the following order:

Arguments are heard on the interim maintenance Application.

The present petition is being filed by the petitioners through their grandmother as guardian whereby various allegations are levelled against the respondent and since 27.09.2023 both the minor petitioners are living with their grandmother in the given promises and both are school going children having their own expenses and they have prayed for interim maintenance @Rs.50,000/- per month.

On the other hand, respondent has denied all the allegations levelled in the petition, however, the factum of being biological father of both the petitioners is being admitted by the respondent.

During the oral arguments, it is submitted on behalf of petitioners that the guardian of the petitioners is receiving family pension for a sum of Rs.13,000/- per month along with a sum of Rs.5,000/- paid by respondent in compliance of the order by this court and she is not having any other source to meet out the expenses of the minor children.

It is submitted that although the school fee is being paid by the respondent but there are expenses of Rs.6,000/- of school van for both the children and Rs.6,000/- to Rs. 7,000/- are being spent on private tuition given to the petitioners.

It is argued that being the biological father of the petitioners, respondent is under an obligation to bear the responsibility to maintain both the petitioners as the biological mother of the petitioners have already married to the third person and her responsibility is no more there on the shoulders of the respondent.

On the other hand, it is submitted on behalf of respondent that the respondent is bearing the responsibility of his second wife which amounts to a sum of Rs.20,000/- and he is giving a sum of Rs.15,000/- per month as the school fees of both the children. It is also submitted that the respondent is presently having a salary of Rs.1,25,000/- and he is hearing liability of home loans of Rs. 45 lakhs and a car loan of Rs. 4 lakhs and some other private debts taken from friends and family relatives.

It is also informed that the respondent is residing with his wife on a rental accommodation and the rent is also to be paid by him.

In view of whole facts and circumstances, the factum of the petitioners being dependent upon the respondent is admitted and the salary of the respondent is also admitted by him. On the other hand, petitioners have admitted the payment of school fees by the respondent. Although, respondent has contended that he is having loan liabilities but details of EMIs etc. are not disclosed which shows that he is trying to conceal true facts from the Court:

However, in all probabilities, respondent is held liable for maintaining the children. As per the well settled proposition by Hon'ble Supreme Court in Chaturbhuj Vs. Sita Bai, (2008) 2 SCC 316 "Father is bound to maintain children irrespective of his remarriage or liabilities". Hon'ble Supreme Court has further laid down in Shailja & Anr. Vs. Khohhanna, (2018) 12 SCC 199 "The father cannot shirk responsibility of maintaining children by citing other expenses or liabilities".

So far, the calculation of the maintenance is concerned after deducting the



expenses of his second wife from his salary which is stated to be Rs.20,000/- per month as per the income affidavit, a sum of Rs.1,05,000/- remains to be distributed amongst the respondent and the petitioners. Although, the respondent is paying school fees, but he cannot deny the tuition fees and school van charges of both the children. Moreover, both the children are of growing age, their expenses are not less than the grown-up persons. Accordingly, the interim maintenance is granted in favour of both the petitioners for a sum of Rs.15,000/- per month each of the petitioner excluding the amount of school fees which the respondent has already undertaken to continue to be paid during the pendency of this case. Let the arrears of the interim maintenance amount be cleared within four months and the arrears be calculated from the date of filing the interim application. Regular payments are to be made on or before the 7th day of each month according to the English Calendar. With this, the interim maintenance application stands disposed of.

Issues have already been framed.

Put up for PE on 03.11.2025. Advance copy of the affidavit in Evidence be supplied to the opposite party.

4. Mr. Amit Saxena, counsel for the Petitioner, submits that the allegations made by the grandmother are false and baseless. He contends that the present complaint has been instigated by the Petitioner's first wife, the biological mother of the children, who already has their custody. Respondents No. 2 and 3, in connivance with their mother and grandmother, have filed a frivolous complaint only to harass the Petitioner.

5. He emphasises that the Petitioner is a government servant working as a Stenographer, presently posted at Karkardooma Courts, earning a salary of INR 1,10,469/- per month as per the salary certificate placed on record. He further submits that the Petitioner maintains his second wife, to whom he provides household expenses of INR 20,000/- per month. Additionally, the Petitioner pays INR 17,000/- per month towards the children's school fees and transportation. Besides this, he incurs liabilities of INR 46,296/- per month towards home loan EMIs, INR 7,500/- towards vehicle loan EMIs, and bears recurring medical and other personal expenses. Considering these financial constraints, the Petitioner asserts that he is not in a position to pay



the maintenance amount as directed by the Family Court and, therefore, seeks interference with and setting aside of the impugned order.

6. The Court has considered the aforesaid contentions. At the outset, it is noteworthy that the impugned order arises from a petition filed by the grandmother of the children rather than their biological mother. The reasons for such an arrangement become evident from the surrounding circumstances. The record indicates that after obtaining divorce from the Petitioner, the mother of the children remarried and has since again separated. This appears to be a case of a broken home, where the children have perhaps not been adequately cared for by either parent. In these circumstances, the grandmother has stepped in to assume responsibility for their day-to-day welfare, and the initiation of proceedings by her as guardian is both natural and justified, being intended to secure the children's basic needs and educational expenses.

7. This Court also notes that certain litigations have earlier been initiated at the instance of the children, against the Petitioner. Nevertheless, as reflected in the impugned order, the interim maintenance amount is directed to be transmitted to the Petitioner's own mother, who, as guardian, shall expend the same exclusively for the welfare and upkeep of the minors. This arrangement, in the Court's view, provides adequate assurance that the sums will be utilised *bona fide* for the benefit of the children. For accountability, however, the Trial Court may keep a oversight and, if necessary, call for a brief report from the guardian regarding the utilisation of the maintenance amount so received.

8. As regards, the contentions urged by the Petitioner that maintenance amount awarded is excessive, the Court is unable to agree. It is well settled



that where exact proof of income or liabilities is lacking, courts are not expected to adopt a purely arithmetical approach, and may make a fair estimation based on probabilities and the parties' lifestyle.¹ The Family Court, while assessing the interim maintenance, took note of the Petitioner's admitted salary and the payments being made towards school fees, but observed that though he claimed substantial loan liabilities, he had not disclosed particulars of EMIs or placed supporting documents on record. In such circumstances, the Court was justified in drawing reasonable inference from the material available, the admitted income, and the overall standard of living of the parties.

9. The father, being the natural guardian, bears a continuing and unqualified duty to maintain his children and cannot evade this obligation on the pretext of limited financial means.² Considering the age of the children, one about 18 years and the other 12 years, both pursuing education and having regular academic as well as extracurricular expenses, their monthly requirements would reasonably not be less than INR 15,000/- each. The assessment made by the Family Court, therefore, cannot be termed arbitrary or excessive.

10. Viewed thus, the impugned orders disclose no perversity or infirmity warranting interference under the limited revisional jurisdiction of this Court. It bears emphasizing that an order of interim maintenance is a provisional measure designed to safeguard basic sustenance during the pendency of proceedings. It neither determines the parties' ultimate rights nor precludes a fresh evaluation upon full evidence at the final stage.

¹ *Bharat Hegde v. Saroj Hegde* 2007 SCC OnLine 622; *Rajnish v. Neha and Anr.* (2012) 2 SCC 324.

² *Shamima Farooqui v. Shahid Khan* (2015) 5 SCC 705.



11. Accordingly, the petition is disposed of.

SANJEEV NARULA, J

NOVEMBER 7, 2025/MK