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

+ **CM(M) 40/2024 & CM APPL. 1177-78/2024, 75093/2025**

**SANJAY BHATIA**

.....Petitioner

Through: Dr. Aman Hingorani, Sr. Adv. with  
Ms. Aditi Ladda, Adv.

versus

**SAMAKSHI BHATIA & ANR.**

.....Respondents

Through: Ms. Malvika Rajkotia and Ms. Akriti  
Tyagi, Advs. (through VC).

**CORAM:**

**HON'BLE MR. JUSTICE AMIT SHARMA**

**ORDER**

**27.01.2026**

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1. This hearing has been done through hybrid mode.
2. The present petition under Article 227 of the Constitution of India, 1950, challenges the order dated 09.12.2023 whereby, the learned Family Court has dismissed the application under Order I Rule 10 of the CPC filed on behalf of the petitioner/defendant No.1 to implead the parents of the respondent No.1/plaintiff No.1 herein in the plaint filed on her behalf.
3. Learned Senior Counsel appearing on behalf of the petitioner submits that the plaint, HAMA No.04/22, filed on behalf of the respondent titled as "Samakshi Bhatia & Anr. vs. Sanjay Bhatia & Ors." had the following subject title and prayers respectively:-

**"PETITION FOR MAINTENANCE AND SEPARATE  
RESIDENCE UNDER SECTION 19 OF THE HINDU  
ADOPTION AND MAINTENANCE ACT, 1956 AND FOR  
PERMANENT INJUNCTION**



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a) Pay a sum of Rs. 4,63,000/- per month towards the maintenance of the Petitioner; or any other amount as this Hon'ble Court may deem fit keeping in mind the Respondent's source of income and/or the expenses and costs of litigation,

b) Pay a sum of Rs. 2,00,000/- per month towards the maintenance of the son Samarveer for his education and extracurricular activities as well as decent upbringing for a child of his age and status,

c) Restrain the Respondents and their agents, servants or any other person acting on their behalf from forcibly removing her from her matrimonial home and interfere in her peacefully enjoying the property A-155, New Friends Colony, New Delhi or in an alternative accommodation of similar status be provided to her,

d) Direct the Respondents to provide the Petitioner with a car, services of a driver and two full time maids,

e) Pass any other or further order or orders as this Hon'ble Court may deem fit and proper in the light of the facts and circumstances of the case."

4. Learned Senior Counsel appearing on behalf of the petitioner submits that learned Family Court while passing the impugned order did not take into account the judgment cited and relied upon by the petitioner in support of the said application. It is the case of the petitioner that to claim maintenance under Section 19 of the Hindu Adoption and Maintenance Act, 1956, it was incumbent on the respondent to demonstrate that she is unable to maintain herself out of her own earnings or other property or, she has no property of her own and is unable to obtain maintenance and has no source of income



from her parents. It was submitted that the learned Family Court did not give any findings on the said aspect nor it has dealt with the judgments relied upon by the petitioner in the impugned order.

5. *Per contra*, learned counsel appearing on behalf of the respondents submits that the plaint filed by the respondent No.1 herein is restricted to the estate of respondent's late husband, and that the petitioner is creating hindrances with respect to her right of maintenance from her late husband's estate, which is in control of the petitioner. It is the case of the respondents herein that no independent relief *qua* the petitioner herein has been claimed on behalf of the respondents and the objection raised on behalf of the petitioner would be adjudicated during the course of trial.

6. Heard learned counsels for the parties and perused the record.

7. Learned Family Court *vide* order dated 09.12.2023 while dismissing the aforesaid application under Order I Rule 10 read with Section 151 of the CPC read with Section 10 of the Family Courts Act, 1984, preferred on behalf of the petitioner, had observed as under:-

“18. As far as the application dated 20.11.2021 whereby it has been prayed to implead parents of petitioner no.1 is concerned, in my considered opinion, both father and mother of petitioner no.1 are neither proper nor necessary parties to adjudicate the present petition. It suffices to say if the petitioner was unable to obtain maintenance from her parents. so as to fasten liability upon the father-in-law under Section 19 of the Act is a question of fact which can be tested during trial only.

19. The upshot is that the application dated 09.08.2021 under Order 1 Rule 10 CPC stands allowed. The names of respondents no. 2 to 5 are struck out from the petition. Application dated 20.11.2021 under Order 1 Rule 10 CPC stands dismissed.”



8. A perusal of the aforesaid observation in the impugned order would reflect that the contentions of the petitioner have not been taken into consideration. The reading of the prayers in the plaint, as noted hereinabove, *prima facie*, reflects that the maintenance has been sought from the petitioner herein under Section 19 of the Hindu Adoption and Maintenance Act, 1956, and no findings has been given with respect to the stand of the respondents herein by the learned Family Court.

9. In these circumstances, this Court deems it appropriate to remand the matter back to the learned Family Court for fresh consideration. Learned Family Court is requested to hear the arguments afresh in the application under Order I Rule 10 of the CPC, and pass a reasoned order, after taking to consideration the contentions raised on behalf of the parties.

10. Learned counsels for the parties submit that since the evidence has begun in the proceedings, the learned Family Court may be requested to expedite the hearing of the aforesaid application.

11. In view of the above, the order dated 09.12.2023 passed by learned Judge, Family Court-01, South-East, Saket, is set aside to the extent that the application on behalf of the petitioner under Order I Rule 10 of the CPC shall be heard afresh and learned Family Court is requested to expedite the hearing on the said application and decide the same within a period of one month from receipt of the order.

12. The matter is remanded back to the concerned learned Family Court.

13. The parties are directed to appear before the concerned learned Family on 03.02.2026, for hearing on the said application.

14. The present petition is disposed of in the aforesaid terms.

15. Pending applications, if any, also stand disposed of.



16. Copy of the order be sent to the concerned learned Family Court for necessary information and compliance.
17. Order be uploaded on the website of this Court, *forthwith*.

**AMIT SHARMA, J**

**JANUARY 27, 2026/nk/ns**