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

% Date of decision: 14.01.2022

+ **MAT.APP.(F.C.) 14/2021** & CM APPL. 26971/2021

FATEH SAHARAN ..... Appellant

Through: Mr. Ramandeep Singh, Adv.

versus

ROHIT SAHARAN ..... Respondent

Through: Mr. Raman Kapur, Sr. Adv. with Mr. Rajat Sehgal, Mr. Aditya Bhardwaj, Adv. for Resp.

**CORAM:**

**HON'BLE MR. JUSTICE VIPIN SANGHI**

**HON'BLE MR. JUSTICE JASMEET SINGH**

### **J U D G M E N T**

**: VIPIN SANGHI, J (ORAL)**

1. The appellant is the minor child of the respondent. He preferred the present appeal being aggrieved by the grant of interim maintenance by the Family Court at the rate of Rs. 15,000/- per month. We have, by our order dated 22.04.2021, directed the respondent to pay Rs. 25,000/- per month to the appellant, considering that his school fee itself is in that range.
2. We may observe that when the respondent's spouse i.e., the mother of the appellant obtained the divorce by mutual consent, the maintenance was fixed in respect of the appellant minor child at the rate of Rs. 5,000/- per month. It goes without saying that the appellant being a minor, is not bound by that settlement, and he is entitled to claim

maintenance for himself for his upbringing from the respondent i.e., his father.

3. Before us, the appellant has raised the issue that the respondent has not truly and correctly disclosed his income. From his Income Tax Returns (ITRs) filed before us, it appeared that apart from agricultural income - which was the only income claimed to have been earned by the respondent, he has been deriving rental income from a property, which is separate from the agricultural income.
4. The respondent was required to file an affidavit to explain the same and he has filed an affidavit dated 03.12.2021 claiming that the land has been leased out by the respondent to a tenant, from which the rent has been derived, which is owned by the respondent's father. Learned counsel for the appellant has vehemently challenged the averments made in the said affidavit by the respondent. The appellant claims that the respondent has deliberately mis-stated facts before this Court in this regard.
5. Considering the fact that the present appeal is directed against the fixation of the interim maintenance at the rate of Rs. 15,000/- per month, which we have raised to Rs. 25,000/- per month, and the appellant's petition is still pending consideration before the learned Family Court, we are inclined to relegate the parties to the learned Family Court to establish their respective claims/ defence before the learned Family Court, and to invite the final order from the learned Family Court.
6. We, therefore, dispose of this appeal with a direction to the respondent to continue to pay Rs. 25,000/- per month to the appellant till the

disposal of the petition preferred by the appellant, or till further orders that the Family Court may pass. The right of the appellant to seek further enhancement, even at the interim stage, is preserved. No adjournments shall be sought by the parties, nor should either of the parties be granted any undue adjournments by the learned Family Court, and we request the learned Family Court to dispose of the petition pending before it under Section 20 of the Hindu Adoptions and Maintenance Act, 1956 within the next one year. All rights and contentions of the parties, including those raised in the present appeal, are preserved and shall be examined by the learned Family Court.

7. Both parties state that they shall produce complete copy of their respective Passports before the learned Family Court for its examination. The same shall be produced before the learned Family Court on the next date fixed before it, which we are informed, is 23.03.2022.
8. The appeal stands disposed of in the aforesaid terms.

भारतमेव जयते

**VIPIN SANGHI, J**

**JASMEET SINGH, J**

**JANUARY 14, 2022/ 'ms'**