



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Reserved on: 09th August, 2023**
Pronounced on: 26th September, 2023

+ **MAT.APP.(F.C.) 213/2022 & CM APPLs. 55546/2022, 18021/2023**

SH. ANURAG SINHA Appellant
Through: Mohd. Faisal, Advocate with
appellant in person.

versus

SMT. NAMRATA NIGAM Respondent
Through: Mr. Abhay Mani Tripathi & Mr.
Hemant Gulati, Advocates.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J

CM APPL. 23368/2023 (Condonation of delay)

1. *Vide* the present application, the applicant/appellant seeks condonation of delay in filing the present appeal.
2. For the grounds and reasons stated in the present application, the application is allowed, the delay in filing the present appeal is condoned.
3. Accordingly, the present application is disposed of.

CM APPL. 18022/2023 (Exemption)

4. Allowed, subject to all just exceptions.
5. The application is disposed of.



MAT.APP.(F.C.) 213/2022

6. The present **Appeal under Section 19 of the Family Courts Act read with Section 151 of the Code of Civil Procedure, 1908** has been filed on behalf of the appellant against the impugned Order dated 16.03.2022 passed by the learned Judge, Family Court declining to modify the interim maintenance *vide* Order dated 23.07.2019 directing the appellant/husband to pay a sum of Rs. 8,000/- per month towards the maintenance of the respondent/wife and Rs. 3,000/- per month for the minor child.

7. **The facts in brief** are that the appellant had got married to the respondent on 20.11.2013 at Vadodara, Gujarat according to the Hindu rites and customs. Once child namely Aadya was born from the wedlock on 22.10.2016. On account of differences *inter se* the parties, the Divorce Petition bearing No. 333/2017 was filed by the respondent/wife against the appellant/husband seeking divorce on the ground of cruelty under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (*hereinafter referred to as 'HMA, 1955'*).

8. During the proceedings an Application under Section 24 of HMA, 1955 was filed for interim maintenance by the respondent. The learned Judge, Family Court after considering the rival contentions and the earning of both the parties and also that the appellant/husband during the arguments had offered to pay Rs.5,000/- per month only for the child and also the income of the appellant/ husband, interim maintenance in the sum of Rs.8,000/- to the respondent/ wife and Rs.3,000/- per month for the minor child were awarded *vide* Order dated 27.03.2019.

9. The appellant then moved an Application under Section 151 of the



Code of Civil Procedure, 1908 for modification of the interim Maintenance Order on the ground that his income has drastically reduced due to COVID-19 Pandemic. It was also asserted that the respondent/wife had concealed the material facts inasmuch as in her Reply to the application, she had admitted that since August, 2019 to April, 2020, she was working with Holy Trinity School and was receiving monthly amount of Rs. 8,000/- to Rs. 10,000/-. Thereafter, from February, 2021, she had started working as Consultant in a Startup Company and was earning Rs. 6,000/- to Rs. 10,000/- per month. The appellant, in view of the earnings by the respondent, sought modification/setting aside of the interim maintenance granted to the respondent/wife and the daughter *vide* Order dated 23.07.2019.

10. The respondent/wife contested the Application and claimed that the appellant/husband had filed a false Income/Assets Affidavit. He is a Senior Architect having more than 20 years of experience and had left his earlier job to start his own business. Though during the COVID-19 Pandemic there was some decline in the business of the appellant/husband but thereafter, it has again flourished. The respondent, to support her assertions, placed on record the printout of Images downloaded on 11.02.2022 from Google in respect of his latest work in 2021. The respondent/wife also asserted that her job was temporary and based on the assignments given to her.

11. The learned Family Judge considered the rival contentions of the parties and did not find any substance for setting aside or modification of the interim maintenance *vide* Order dated 23.07.2019 and dismissed the Application.



12. Being aggrieved, the present Appeal has been preferred by the appellant/husband.

13. **Submissions heard.**

14. The appellant has sought reduction in maintenance amount essentially on two grounds viz., reduction in his earnings due to COVID-19 Pandemic and that the wife/respondent has started earning.

15. Admittedly, the appellant/ husband is a Senior Architect who had left his earlier job to start up his own business and had an experience of more than 20 years. Indisputably, during the COVID-19 Pandemic there was a decline in the business of the appellant but thereafter it has again flourished. To support these assertions the respondent had placed on record the images down loaded on 11.02.2022 from Google in respect of the latest works in 2021 of the appellant to show the business outreach of the appellant which shows that the business which may have suffered for some period, but has again picked up and is doing well. No reduction/revision of maintenance on this ground was merited as held by the learned Judge, Family Court.

16. The appellant/husband had further claimed that the respondent/wife has admitted that she had been working since August, 2019 and was having an income of Rs. 6,000/- to Rs. 10,000/- per month which should be considered to reassess the interim maintenance.

17. We find that even though the interim maintenance has been granted, the appellant is in arrears of about Rs. 4,67,000/- and the appellant/husband has not been making payment of interim maintenance. Faced with such a financial crunch, if the respondent has started working and generated some source of income which is admittedly about Rs.



10,000/- per month to supplement day-to-day expenditure of herself and the daughter, it cannot be considered as a ground to reduce the maintenance.

18. The appellant/ husband had also claimed that the respondent had concealed the factum of her employment and earnings. However, the learned Judge, Family Court had observed that the respondent has started earning after passing of the interim maintenance Order dated 23.07.2019 and therefore, the same could not have been possibly disclosed earlier. The efforts of the respondent to meet her expenses by creating some source of income in the sum of Rs.6,000 to Rs.10,000/- where the husband has failed to discharge his obligations of paying the maintenance and is in arrears of more than Rs.4,67,000/-, cannot be considered as a reason to modify/ reduce the interim maintenance.

19. We hereby conclude that the grounds taken by the appellant for reduction in interim maintenance, have been rightly rejected by the learned Judge, Family Court.

20. Accordingly, we find no infirmity in the impugned Order dated 16.03.2022, and the present Appeal is hereby dismissed along with pending applications.

(NEENA BANSAL KRISHNA)
JUDGE

(SURESH KUMAR KAIT)
JUDGE

SEPTEMBER 26, 2023

S.Sharma