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

% *Decision delivered on: 15.05.2024*

+ **MAT.APP.(F.C.) 165/2024 & CM Nos.28902-04/2024**

ANCHAL GUPTA

..... Appellant

Through: Mr Tanmay Mehta, Ms Anchal Sharma, Mr Abhishek Sharma, Mr Ajay K. Tyagi and Mr Parveen Kumar, Advs.

versus

ASHISH GUPTA

..... Respondent

Through: Mr Kr. Mohd. Asad and Mr Loveleen Kaithwas and Mr Mursaleen, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

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

[Physical Hearing/Hybrid Hearing (as per request)]

**RAJIV SHAKDHER, J. (ORAL):**

**CM No.28902/2024**

1. Allowed, subject to just exceptions.

**MAT.APP.(F.C.) 165/2024 & CM Nos.28903-04/2024**

2. Issue notice.

2.1 Mr Kr. Mohd. Asad accepts notice on behalf of the respondent.

3. With the consent of learned counsel for the parties, the appeal is taken up for hearing and final disposal at this stage itself.

4. This appeal is directed against the judgment and order dated 26.04.2023 passed by the Family Court, Shahdara District, Karkardooma



Courts, Delhi.

5. The learned Principal Judge, based on the application filed by the respondent under Section 340 of the Code of Criminal Procedure, 1973 [in short, “Cr.PC”]; application for maintenance *pendente lite* preferred under Section 24 of the Hindu Marriage Act, 1955 [in short, “HMA”] and the application filed for furnishing bank details by the appellant and for directions to freeze her bank account, proceeded to pass the impugned judgment and order.

6. A perusal of the impugned judgment and order reveals that the learned Principal Judge has, based on the assertions made by the respondent in his applications, noted certain aspects concerning the business run by the appellant under the name “Zillion Billion by A2”.

7. Furthermore, the learned Principal Judge has also taken note of the assertion made by the respondent that the rent agreement placed on record by the appellant might be a “fabricated document”.

8. Mr Tanmay Mehta, learned counsel, who appears on behalf of the appellant, says that the directions issued by the learned Principal Judge are unsustainable as no prior notice concerning the applications was given to the appellant.

9. Furthermore, Mr Mehta says that although the name of the proprietorship concern under which the appellant is carrying on business is not given in the affidavit filed before the Family Court by the appellant, it was indicated that the appellant was carrying on an e-commerce business, *albeit* from a rented accommodation, in which she had incurred a huge loss.

10. As far as the rent agreement is concerned, Mr Mehta concedes that it has been executed between the appellant and her father, having a tenure of



five years.

11. We may note that, quite strangely, the rent agreement was not filed with the appeal. Mr Mehta, however, placed before us a soft copy of the rent agreement in the course of hearing.

12. Concededly, the rent agreement is not registered and it is admitted by Mr Mehta that it has been executed between the appellant and her father.

13. Mr Asad says that his associate Ms Kanika Kumari, Advocate carried out an inspection of records available with the Family Court.

13.1 It is Mr Asad's contention that a part of the directions issued *via* the impugned order have been complied with.

13.2 In this regard, we are informed by Mr Asad that the concerned GST officer has submitted a report, which reveals that for the last three years, taxes to the tune of Rs.30 lakhs have been paid by the appellant.

14. At this juncture, Mr Mehta informs us as well that a police personnel had interacted with the appellant and made inquiries.

14.1 Mr Mehta says that he is unaware as to whether any report was prepared and submitted to the Family Court in line with direction contained in the impugned judgment and order.

15. Given this position, for the moment, further inquiry in terms of directions (i) and (ii) contained in the impugned judgment and order shall remain stayed.

16. The learned Principal Judge will afford an opportunity to the appellant to file a response to the applications based on which the impugned judgment and order was rendered.

17. We make it clear that nothing stated hereinabove will impact the final decision rendered in the above referred applications filed by the respondent



before the Family Court.

17.1 We may also note that the observations made in the impugned judgment and order would not impact the final decision in the applications.

18. Needless to add, the learned Principal Judge will pass an order after hearing both sides.

19. The appeal is disposed of in the aforesaid terms.

20. Consequently, the pending applications shall stand closed.

21. Parties will act based on the digitally signed copy of the order.

**RAJIV SHAKDHER, J**

**AMIT BANSAL, J**

**MAY 15, 2024**

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