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

% *Date of decision: 09.05.2024*

+ **MAT.APP.(F.C.) 157/2024**

VISHWAS CHOPRA

..... Appellant

Through: Mr Yash Mishra with Mr Anuj
Rathee, Advocates.

versus

SMT. SHEENA CHOPRA

..... Respondent

Through: None.

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 APPL. 27765/2024

1. Allowed, subject to just exceptions.

**CM APPL. 27764/2024 [Application filed on behalf of the appellant
seeking condonation of delay of 6 days in filing the appeal]**

2. Thus is an application filed by the appellant seeking condonation of
delay in filing the appeal.

3. According to the appellant, there is delay of six (06) days in filing the
appeal.

4. Having regard to the period involved, the delay in filing the appeal is
condoned.

5. The application is disposed of.



MAT.APP.(F.C.) 157/2024 and CM APPL. 27763/2024 [Application filed on behalf of the appellant seeking interim relief]

6. This appeal is directed against the judgment and order dated 07.03.2024 passed by the Family Court, Central Tis Hazari Court, New Delhi.

7. Via the impugned judgment and order, the Family Court has disposed of the application preferred by the respondent/wife under Section 24 of the Hindu Marriage Act, 1955 [in short, "HMA"].

8. The record shows that the parties entered into matrimony on 09.07.2011. From the wedlock, the parties have a male child born on 11.05.2012. The parties appear to have separated in and about November 2019.

9. The appellant/husband has instituted a petition under Section 13(1)(ia) of the HMA for divorce. We are told that the divorce petition is pending adjudication. Concededly, the child is admitted to a private school i.e., J.D. Tytler School, Delhi.

10. The record discloses that the child is presently studying in Class 4. It is not in dispute that the appellant works as a Senior Manager in Tata Consultancy Services (TCS) and is presently posted in Mumbai.

11. The respondent/wife, according to the appellant/husband, is well educated and has a degree in Bachelors of Science.

11.1 It is also the contention of the appellant/husband that the respondent/wife was residing in her parents' house in Inderpuri, till she moved to a rented accommodation, which was around the time when the impugned order was passed.

12. We have examined the record. What has come through, and



something which is not disputed by the counsel for the appellant/husband, is that the appellant/husband earns a monthly income of Rs.1,29,000/- after deduction of taxes. The respondent/wife, on the other hand, is presently a home maker. The trial court has also perused the bank statement of the respondent/wife for the period between 01.03.2020 and 25.02.2023, the details of which are set forth in paragraph 8 of the impugned judgment.

12.1 Clearly, the entries recorded in the respondent's/wife's bank statement concerning the account maintained by her with the ICICI Bank, Patel Nagar, Delhi shows that the maximum bank balance as on 01.03.2020 which appeared in her account was Rs.2,80,104.73.

12.2 In contrast, the bank statement of the appellant/husband concerning the account maintained with HDFC Bank, Churchgate, Mumbai, for the period between 01.04.2020 and 22.03.2023 shows that there were regular credit entries of an amount varying between Rs.1,00,000/- to Rs.2,05,000/-. The maximum balance in the bank account was Rs.14,30,028/- as on 01.04.2022.

13. Furthermore, the income tax returns for Assessment Years (AYs) 2020-21 and 2022-23 disclose that the gross total income of the appellant/husband was Rs.3,30,242 and Rs.22,79,530 respectively. Income after tax for AY 2022-23 was Rs.18,80,121.

14. Counsel for the appellant/husband says that since the respondent/wife is well qualified, the burden of paying maintenance should not be placed on the appellant/husband.

14.1 It is submitted that while the appellant/husband is willing to bear the financial burden of rearing the child, he is unwilling, given the educational qualification of the respondent/wife, to be mulcted with the liability of



providing maintenance to the respondent/wife.

15. According to us, the Family Court has, based on appreciation of the material placed before it i.e., affidavit and the bank statements, concluded that the respondent/wife needs a reasonable amount for day-to-day expenses.

16. As noted above, the maintenance fixed concerning the respondent/wife is Rs.25,000/- while for the child, the maintenance is pegged at Rs.15,000/-. As a matter of fact, in our opinion, perhaps, the maintenance fixed for the child was on the lower side. However, given the position that respondent/wife is also awarded maintenance, in all probability the respondent/wife will be able dip into her share, which would enable her to take care of the expenses likely to be incurred to bring up the child. Evidently, the child is taking private tuitions as well. The bank statement of the respondent/wife includes entries between 31.12.2020 and 12.09.2022 which are suggestive of the fact that funds are being used to meet expenses concerning the child.

17. We may note that in paragraph 13 of the impugned judgment, the Family Court has recorded that the respondent/wife placed on record a copy of the registered rent agreement dated 16.01.2023 which was indicative of the fact that she was paying monthly Rs.19,000/-.

18. The submission of the counsel for the appellant/husband is that the respondent/wife has not placed the original rent agreement on record and therefore cannot be relied upon. This argument does not impress for three reasons: firstly, nothing was shown to us that a request was made that the original rent agreement should be placed on record, which was declined; secondly, stricto sensu the provisions of Indian Evidence Act has no applicability; and lastly, what lends credence to the rent agreement is the



fact that it appears to have been executed more than a year before the impugned order was passed i.e., not rustled up just about the time the application was disposed of.

19. Thus, having regard to the aforesaid view of the matter, we are not inclined to interfere with the impugned judgment and order.

20. The appeal is accordingly dismissed.

21. Consequently, pending application shall also stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

MAY 9, 2024/tr