

\$~3

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

MAT.APP.(F.C.) 3/2020

SHEETAL JOSHAN ROY

..... Appellant

Through: Mr. Debopriyo Moulik, Adv.

versus

SOUMYAJIT ROY

..... Respondent

Through: Mr. Rajesh Bhatia, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

%

05.10.2021

1. The appellant has preferred the present appeal to assail the order dated 14.08.2019 in HMA Case No. 5861276/2016, whereby the learned Single Judge, Family Court has decided the application preferred by the appellant under Section 24 of the Hindu Marriage Act, 1955.
2. The Family Court has granted maintenance at the rate of Rs. 30,000/- per month to the appellant-wife and Rs. 15,000/- per month each in respect of the two minor children, aged 8 years and 12 years.
3. The objective of granting interim or permanent maintenance to a spouse is to ensure that they are not reduced to financial constraints, due to the failure of their marriage. There can be no strait jacket formula for deciding the amount of maintenance to be awarded – many factors need to be taken into account. The maintenance amount awarded must be realistic and reasonable.
4. A perusal of the impugned order shows that there is hardly any discussion undertaken by the Presiding Judge while passing the impugned order, he has only recorded the submissions of the parties

and in paragraph 8 observed as follows:

“8. Keeping in view the submissions and the facts of the case that the divorce petition filed by the petitioner is pending. Petitioner is working in Dubai and earning more than 20,000 Dirhams per month which on conversion comes to around Rs. 4,00,000/- in Indian currency. Besides that respondent has two minor children who are dependent upon respondent. Since 18.04.2018 onwards she is not working. Keeping in view, all these facts and that it is the duty and responsibility of the petitioner to support the respondent and the children. It is directed that petitioner shall pay Rs. 30,000/- to the respondent per month and Rs. 15,000/- per month to each of the children. Support amount to the respondent shall be payable to the respondent from 18.04.2018 onwards. So far as the amount payable to children are concerned that shall be payable from the date of application i.e. 21.10.2013 till the disposal of the present petition. Application u/s 24 of HMA stands disposed off.”

5. We are also conscious of the fact that a certain amount of guess work is required to grant maintenance as none of the parties disclose their true and correct income in their income affidavits, but we cannot forget or ignore the purpose of “Adjudication” by a Court of competent jurisdiction. An order, judgment or decree is to:
 - (a) see and appreciate the pleadings of the parties;
 - (b) see and appreciate the supporting documents;
 - (c) analyse the material before the Court;
 - (d) apply the principles of law and the precedents and thereafter give a reasoned and speaking order which effectively adjudicates the pending disputes.

6. The purpose of an “Adjudication” is that the parties get to know the material, the reasoning and the thought process which has weighed with the Court while passing the order. After an order is passed, it should be clear as to what were the facts of the case, what was controversy that arose in the matter and ultimately the reasoning due to which the court came to its conclusion and decision.
7. In *G.Saraswathi & Anr v. Rathinammal & Ors* (2018) 3 SCC 340 it was held by the Supreme Court that:

“10. Time and again, this court has emphasised on the courts the need to pass reasoned order in every case which must contain the narration of the bare facts of the case of the parties to the lis, the issues arising in the case, the submissions urged by the parties, the legal principles applicable to the issues involved and the reasons in support of the findings on all the issues arising in the case and urged by the learned counsel for the parties in support of its conclusion. It is really unfortunate that the Division Bench failed to keep in mind this principle while disposing off the appeal and passed a cryptic and unreasonable order. Such order, in our view, has undoubtedly caused prejudice to the parties because it deprived them to know the reasons as to why one party has won and other has lost.”
8. The impugned judgment dated 14.08.2019 fails to meet the test of “Adjudication” as enumerated by us above and the need of a reasoned order.
9. We, therefore, remand back the matter to the Family Court for re-hearing the matter and for passing a detailed and reasoned order on the same.
10. Both parties are entitled to file further documentary evidence on which they wish to place reliance, along with their respective additional affidavits which may be filed within three weeks from today.

11. In the meantime, the respondent shall not only continue to pay maintenance as fixed by the Family Court but shall also pay the entire school fee of the children.
12. The appellant shall file before the Family Court the details of the school fee already paid in respect of the children and also the current fee payable in respect of the children.
13. As soon as the said particulars are filed before the Family Court, the respondent shall, within two weeks thereof, clear the arrears and also start paying current fee.
14. Counsel for the appellant states that there arrears of Rs. 17,00,000/- payable by the respondent in terms of the impugned order towards maintenance. This is disputed by the respondent who is present and states that the entire amount has been paid. This aspect shall also be considered and decided by the Family Court.
15. We request the Family Court to expedite the hearing of the application under Section 24 as well as the consideration of the aspect whether there are any arrears pending or not. The hearing in the divorce proceeding shall also be expedited.
16. The appeal stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

JASMEET SINGH, J

OCTOBER 5, 2021

Sahil Sharma