



\$~8

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

% *Date of decision: 14th September, 2023*

+ **MAT.APP.(F.C.) 174/2019 & CM APPL. 47321/2023**

DIVYA SRIVASTAVA Appellant
Through: Mr. Narender Bhandari, Advocate.

versus

VAIBHAV SRIVASTAVA Respondent
Through: Mr. Varchaswa Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. An appeal under Section 19 of Family Courts Act read with Section 28 of HMA has been filed by the appellant/ wife against the Order dated 27.04.2019 vide which the interim maintenance under Section 24 of HMA has been declined to her while a sum of Rs.7,000/- per month is awarded to the minor child.

2. The parties had got married on 23.11.2016 and were blessed with one son Adivik on 04.12.2017. Differences arose between the parties and they separated. The respondent/ husband had filed a petition for divorce under Section 13 (1)(ia) of HMA against the appellant/ wife. The child is in the custody of the appellant/ wife. **The appellant had claimed** interim maintenance in the sum of Rs.46,000/- under Section 24 of HMA. The



learned Principal Judge, Family Court considered the income of both the appellant and the respondent and held that the appellant was having her own independent source of income and declined to grant any interim maintenance. However, Rs.7,000/- per month were directed to be paid towards the maintenance of the child. Aggrieved, the present Appeal has been preferred by the appellant.

3. **Submissions heard.**

4. Admittedly, the appellant/ wife is a qualified B.Tech Software Engineer and had been working as Senior Software Engineer in HCL. At the time of institution of petition, she was earning Rs.40,000/- per month. During the course of the argument it was submitted that her present salary is about Rs.70,000/- in hand.

5. The respondent/ husband is B.Com (Hons.) and CA IIB (Banking Sector) and employed with Bank of Baroda and earning Rs.53,000/-. At present, he is earning about a little more than Rs.1 lakh.

6. The parties are living separately since April, 2017 and both are gainfully employed and earning comparable salaries. Considering that the appellant/wife is also having some savings and resources in addition to her salary, the interim maintenance has been declined to her. During the course of the arguments as well learned counsel for the appellant has not been able to show the incongruity in the impugned Order. The wife having sufficient means to support herself, cannot claim maintenance.

7. The child is in the exclusive custody of the appellant/ wife. It is the joint responsibility of both the parents to contribute physically, mentally, emotionally and financially to ensure the upbringing and wellbeing of the minor child. The child is now stated to be in 1st standard. Considering his



tender age and his educational and other requirements, there is no infirmity in grant of Rs.7,000/- per month to the minor as the contribution from the father for his maintenance.

8. We find no infirmity in the impugned Order and the Appeal is hereby dismissed.

9. The pending applications, if any, also stand disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 14, 2023

va