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

+ CM(M) 734/2022

RAJAT KAPOOR

..... Petitioner

Through: Mr. Samit Khosla with Mr. Aditya Singla and Mr. Aayush Goel,
Advocates.

versus

MEGHA KHETRAPAL

..... Respondent

Through: Mr. Gaurav Gaur with Mr. Rohit Sehgal, Advocates.

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Date of Decision: 27th July, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CM APPL.32800/2022 (exemption)

Exemption allowed subject to all just exceptions.

CM(M) 734/2022 & CM APPL.32799/2022 (stay)

1. Present petition has been filed challenging the impugned order dated 06.07.2022, whereby, an application moved by the petitioner for recall of order dated 17.07.2021, was dismissed. Vide order dated 17.07.2021, learned Principal Judge, Family Court awarded an ad-interim maintenance of Rs.1 lakh per month in favour of the respondent wife after noting that the petitioner husband did not appear despite being served.

2. Learned counsel for the petitioner submits that this order was passed in the teeth of the directions issued by this Court dated 08.04.2021 on administrative side.

“HIGH COURT OF DELHI: NEW DELHI

No.256/RG/DHC/2021

Dated: 08.04.2021

OFFICE ORDER

**SUBJECT: SYSTEM OF HEARING OF MATTERS BEFORE
DELHI DISTRICT COURTS WITH EFFECT FROM
09.04.2021.**

In continuation of this Court's Office Order Nos.123/RG/DHC/2021 dated 20.02.2021 and 157/RG/DHC/2021 dated 19.03.2021, Hon'ble Full Court has been pleased to order that the District Courts in Delhi shall, with effect from 09.04.2021, hold courts through virtual mode only, till 24.04.2021 and the video conferencing links of the courts be made available on the website/cause-list.

It has further been directed that the Principal District and Sessions Judges in consultation with the DG (Prisons) shall make necessary arrangements for extension of remand of UTPs. Wherever required, during the trial, UTPs may be produced through video-conferencing. No adverse orders shall be passed by the District Courts in Delhi in case of non-appearance of parties and/or their counsel and the matters which are fixed for recording of evidence, shall be adjourned.

By Order

(Manoj Jain)
Registrar General

Endst. No.257-288/RG/DHC/2021

Dated:08.04.2021"

3. Learned counsel for the petitioner submits that even as per the order dated 31.08.2021, passed by the learned Principal Judge, Family Court,

South in the same proceedings, it was noted that the Office order dated 08.04.2021 has been withdrawn with effect from 24.08.2021.

4. For clarity, the order dated 31.08.2021 is reproduced herein below:-

“M. No. 21/98

Megha Khetrapal vs. Rajat Kapoor

31.08.2022

Physical Hearing

Present: Ld. Counsel for petitioner.

Sh. Sunil Kumar, Ld. Counsel for respondent.

Pursuant to office order bearing No.509/RG/DHC/2021 dated 19.08.2021 issued in continuation of the earlier office orders No.504/RG/DHC/2021 dated 2.8.2021 of High Court of Delhi, it is directed that physical hearing in the District courts in Delhi shall resume on alternate days w.e.f. 24.08.2021. The Order No.256/RG/DHC/2021 dated 8.4.2021 directing that no adverse order shall be passed by the District courts in Delhi in case of non-appearance of parties and/or their counsel has also been withdrawn w.e.f. 24.8.2021.

Vakalatnama on behalf of respondent filed. It be taken on record.

Respondent has moved an application for recalling of the order dated 17.7.21 etc. Copy supplied.

Put up for reply to main petition, reply to IMA, filing of income affidavit on behalf of respondent and reply and arguments on miscellaneous application moved today, on 26.11.21.

(Praveen Kumar)
Principal Judge

5. Learned counsel for the petitioner submits that his application for recall of order dated 17.07.2021 was dismissed without giving any detailed reasons.

6. Learned counsel for the respondent has opposed the present petition. He submits that the petition itself is not maintainable. It has been submitted that the order passed by the learned Judge on 17.07.2021 cannot be considered to be an adverse order as it was passed on the basis of the admissions of the petitioner herein. It has further been submitted that had an ad-interim maintenance been not granted, it would have been an adverse order for the respondent herein.

7. Learned counsel for the petitioner has disputed the contention of the learned counsel for the respondent that there was an admission on the part of the petitioner herein.

8. This Court considers that without going into the merits and contentions of the parties, which may be left open to be decided by the Principal Judge, Family Court. However, in order to meet the interest of justice and in view of order dated 08.04.2021, passed by this Court on the administrative side, the order dated 17.07.2021 is set aside.

9. However, it has been informed that the application for interim maintenance is fixed for hearing before the learned Principal Judge, Family Court today itself. Thus, it is directed that the learned Principal Judge, Family Court shall conduct the hearing of the application today itself and

shall decide the same expeditiously without being influenced by the order dated 17.07.2021 awarding ad-interim maintenance in favour of the respondent wife.

10. Again, it is reiterated, for the sake of clarity, that this Court has not gone into the merits of the case. Rights and contentions of the parties are left open to be adjudicated by the Trial Court. Since the order dated 17.07.2021 has been set-aside, the execution emanating therefrom also stands set-aside.

11. Accordingly, the present petition along with pending application stands disposed of.

12. *Dasti* under the signatures of the Court Master.

DINESH KUMAR SHARMA, J

JULY 27, 2022

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