

Kusum Sharma vs.mahinder Kumar Sharma

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Court : Delhi

Decided On : May-29-2017

Appellant : Kusum Sharma

Respondent : Mahinder Kumar Sharma

Advocate for Def. : Mr. Rahul Sharma, Ms. Jyoti Dutt Sharma, Mr. C.K. Bhatt, Mr. Sunil Mittal, Mr. Dhruv Grover, Ms. Anu Narula

Judgement :

\$~56 * IN THE HIGH COURT OF DELHI AT NEW DELHI % + Date of Decision:

29. h May, 2017 FAO3691996 & CM150832014 KUSUM SHARMA Through: None. Appellant versus MAHINDER KUMAR SHARMA Respondent Through: Mr. Rahul Sharma, Ms. Jyoti Dutt Sharma, Mr. C.K. Bhatt, Advocates. Mr. Sunil Mittal, Senior Advocate as amicus curiae with Mr. Dhruv Grover, Advocate. Ms. Anu Narula, Advocate as amicus curiae. CORAM: HON'BLE MR. JUSTICE J.R. MIDHA JUDGMENT (ORAL) Vide order dated 14th January, 2015, 1. this Court formulated the affidavit of assets, income and expenditure to be filed by both the parties in matrimonial cases. This Court had directed the Courts below to send their response to the working of the guidelines as well as their suggestions.

2. The Family Courts have sent their response as well as suggestions with respect to the affidavit of assets, income and expenditure. Mr. Sunil Mittal and Ms. Anu

Narula, learned amici curiae have also given valuable FAO3691996 Page 1 of 1 suggestions.

3. Upon careful consideration of the suggestions received from the Family Courts and the learned amici curiae, the format of the affidavit of assets, income and expenditure attached as Annexure A to the order dated 14th January, 2015 is modified. The modified format of the assets, income and expenditure is Annexure A1 to this order. Clause 19.4 of the order dated 14th January, 2015 is modified to the 4. extent that the affidavit of assets, income and expenditure of the parties shall be in the format attached hereto as Annexure A1. Clause 19.20 of the order dated 14th January, 2015 is modified to the 5. extent that the procedure laid down in the order dated 14th January, 2015 shall also apply to cases under the Guardians and Wards Act, 1890 and Hindu Minority and Guardianship Act, 1956. Clauses 19.2 and 19.5 of the order dated 14th January, 2015 are 6. clarified to the extent that the Family Courts and other Courts dealing with cases under Hindu Marriage Act, 1955; Protection of Women from Domestic Violence Act, 2005; Section 125 Cr.P.C; Hindu Adoption and Maintenance Act, 1956; Special Marriage Act, 1954; Indian Divorce Act, 1869; Guardians and Wards Act, 1890 and Hindu Minority and Guardianship Act, 1956 shall incorporate the following endorsement in bold letters on the notice/summons to be issued to the respondent :-

"Note :-

"The respondent is directed to file the affidavit of his assets, income and expenditure along with the documents within 30 days of the receipt of the notice. The affidavit shall be in format of Annexure A1 which can be downloaded from the following website: - _____ (Give the link of website of District Courts/Family Courts). FAO3691996 Page 2 of 2 Clause 19.10 of the order dated 14th January, 2015 is modified to the 7. extent that the wife seeking divorce but not claiming maintenance, may seek exemption from filing the affidavit along with the divorce petition. However, this does not preclude the Court from directing the parties to file the affidavit at a later stage of the proceedings. Clause 19.17 of the order dated 14th January, 2015 is clarified to the 8. extent that the interim litigation expenses being directed by the Family Courts at the stage of issuing notice, does

not preclude the respondent from seeking further litigation expenses incurred by the respondent and the Courts shall consider the respondents claim for litigation expenses and pass an appropriate order on the merits of each case.

9. Annexure A1 i.e. modified format of affidavit of assets, income and expenditure be implemented w.e.f. 16th August, 2017. Annexure A1 i.e. the modified format of affidavit of assets, income and expenditure along with its Hindi translation be uploaded on the website of the District Courts/Family Courts by 1st August, 2017 to enable the lawyers and litigants to download the same. The Family Courts shall display Annexure A1 on their Notice board by 1st August, 2017 along with a notice that the affidavit of assets, income and expenditure in terms of the order dated 14th January, 2015 has to be in the format of Annexure A1 w.e.f. 16th August, 2017.

10. The Registrar General shall ensure that the Family Courts display Annexure A1 with its Hindi translation on their notice boards and the same is uploaded on the website of District Courts/Family Courts by 1st August, 2017; and the note mentioned in para 6 above is incorporated in the format of the notice/summons with the link of the website duly filled up. FAO3691996 Page 3 of 3 List for reporting compliance on 13th September, 2017. This Court appreciates the valuable assistance rendered by Mr. Sunil 11.

12. Mittal, Senior Advocate and Ms. Anu Narula, Advocate as amici curiae.

13. Copy of this judgment be sent to the Registrar General who shall circulate it to all the District Judges and Family Courts along with Annexure A1 i.e. modified format of the assets, income and expenditure and its Hindi translation.

14. Copy of this judgment along with the Annexure A1 be given dasti under the signatures of the Court Master to learned amici curiae. MAY29 2017 dk J.R. MIDHA, J.

FAO3691996 Page 4 of 4 1 ANNEXURE - A1 (FORMAT OF AFFIDAVIT OF ASSETS, INCOME AND EXPENDITURE TO BE FILED BY THE BOTH PARTIES)
AFFIDAVIT I _____, son of / wife of

_____, aged about _____ years, resident of _____, do hereby solemnly declare and affirm as under: PERSONAL INFORMATION RELATING TO THE DEPONENT
S.No.Description Particulars PART - I 1 2.

3. 4.

5. 6.

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15. 16. Name Age Residential Address E-mail Address Date of marriage Date of separation Educational qualifications Professional qualifications Occupation Monthly income (as mentioned at serial no.45) Monthly expenditure (as mentioned at serial no.60) Whether you are assessed to Income Tax?. Whether you have sufficient income to support yourself?. If not, whether you have claimed maintenance from your spouse?. If so, how much?. Whether you are staying at matrimonial home?. If not staying at matrimonial home, relationship and income of the person with whom you are staying.

17. Members of the family: (a) Dependent 2 18.

19. 20.

21. 22.

23. (b) Non-dependent Whether your spouse has claimed maintenance from you?. If so, how much?. Whether you have voluntarily paid or willing to pay maintenance

to your spouse?. If so, how much?. Whether you are willing to pay litigation expenses to your spouse?. If so, how much?. Particulars of pending litigation between the parties Whether any maintenance order has been passed by any Court?. If so, give particulars and attach copy of the order?. Whether the maintenance is being paid in terms of the aforesaid order?. If so, file the statement of maintenance paid upto date 24. Expenses incurred on this litigation 25. Particulars of the bank account with name and address of the bank for the purpose of payment from or receipt of maintenance, as the case may be 26. Name of your counsel and his/her mobile number and e-mail address RELEVANT INFORMATION RELATING TO THE SPOUSE PART - II 27 Educational and professional qualifications of your spouse 28. Whether your spouse was/is earning?. If so, give particulars of the occupation and income of your spouse.

29. Whether your spouse is staying at matrimonial home. If not, whether he/she is staying at his/her own accommodation or at a rented accommodation?. If staying at a rented accommodation, what is the rent being paid by him/her?.

30. Particulars of the assets and liabilities of your 31. spouse Do you have any documents relating to the income, assets and expenditure of your spouse?. If so, give the particulars and attach copies thereof?. 3 RELEVANT INFORMATION RELATING TO THE CHILDREN PART - III 32 Children from the marriage with their name and age 33. Who has the custody of the minor children 34. Name and address of school(s) where the children are studying 35. Who is bearing the expenditure of Childrens education 36.

37. How much expenditure has been incurred on the childrens maintenance and childrens education from the date of separation till now?. If the children are in custody of your spouse, whether you have voluntarily paid or willing to pay the expenses for the childrens maintenance and education?. If so, how much?.

38. Details of expenditure on children Amount (in Rs.) (i) School/College fees (ii) Crech/Day Care/After school care (iii) Books/Stationery (iv) Private Tuitions (v) Pocket Money/Allowances (vi) Sports (vii) Outings/summer camps/vacations (viii) Entertainment (ix) Others 39. TOTAL EXPENDITURE (Give monthly expenditure) S.No PART-IV STATEMENT OF INCOME Description Particulars 4 40. In case of

salaried persons: (i) Designation (ii) Name and address of the employer (iii) Date of employment (iv) Gross Income including the salary, D.A., commissions/incentives, bonus, perks etc. including or personal (v) Perquisites and other benefits provided by the accommodation, employer cars/other automotive, sweeper, gardener, watchman attendant, gas, electricity, water, interest free or concessional loans, holiday expenses, free or concessional travel, free meals, free education, gifts, vouchers, etc. credit card expenses, club expenses, use of movable assets by employees, transfer of assets to employees, value of any other benefit/amenity/service/ privilege and the value of such perquisites and benefits (vi) Deductions from the gross income (vii) Income Tax paid (viii) Net income (ix) Value of stock option benefits if provided by the employer (x) Pension and retirement benefits payable at the time of retirement 41. In case of self-employed persons: (i) Nature of business/profession (ii) Whether the business/profession is carried on as an individual, sole proprietorship concern, partnership concern, company or association of persons, HUF, joint family business or in any other form. Give particulars of your share the business/profession. In case of in partnership, the profit/losses of the partnership specify in the share (iii) Number of employees 5 (iv) Annual turnover/gross receipts (v) Gross Profit (vi) Net Income (vii) Income Tax (viii) Details and value of benefits in kind, perks or other remuneration e.g. provision of car, payment of accommodation etc (ix) Amount of regular monthly withdrawal or drawings 42. In case the business/profession is carried on as a Partnership Firm/Company: (i) Registered/Corporate Office of the firm/company (ii) Information and particulars with regard to your shareholding, involvement in the affairs and management of the firm/company (iii) Directors/ Partners remuneration :-

"(a) Salary (b) Interest (c) Rent (d) Commission (e) Others (iv) List of all firm/company the bank accounts of the (v) Location of the statutory records and books of account of the firm/company (vi) List of immovable assets, land and building etc. of the firm/company. (vii) Number of workmen/employees (viii) Current value of your business interest(s) (ix) Current value of your business assets (x) List of directorships held, sitting commission or any other remuneration fees, (xi) Net worth of the company in which you are Director along with the number of shares held in the Company 43. Income from Other Sources: (i)

Agricultural Income 6 Amount (in Rs.) 44.

45. (ii) Rent (iii) Interest on bank deposits and FDRs (iv) Interest on investments including deposits, NSC, IVP, KVP, Post Office schemes, PPF, loans etc. (v) Dividends (vi) Mutual Funds (vii) Annuities (viii) Lease of machinery, plant or furniture (ix) Sale of movable/ immovable assets (x) Gifts Any other income not covered above TOTAL INCOME (Give monthly income) S. No.

PART V
STATEMENT OF EXPENDITURE
Description
46. Housing (i) Monthly rent 47. Household expenditure (ii) Mortgage payment(s) (iii) Repairs & Maintenance (iv) Property tax (i) Groceries/Food items/ Personal care/clothing (ii) Water (iii) Electricity (iv) Gas (v) Telephone/Mobile (vi) TV Box Internet services Cable/Set-top charges & (vii) Maintenance, replacement and repair of household items, appliances and kitchenware. 7 (viii) Telephone (ix) Domestic full time/part time helper(s) (x) Others (specify)
48. Maintenance of (i) Parents Dependents (ii) Children (as mentioned at serial no.39) (iii) Others
49. Transport (i) Private Transport (a) Driver(s) (b) Fuel (c) Repair/Maintenance (d) Insurance (e) Loan repayment (ii) Public Transport (a) Bus (b) Taxi (c) Metro (d) Auto
50. Medical expenditure (i) Doctors Charges (ii) Medication (iii) Hospital (iv) Other medical expenditure (v) Others (specify)
51. Insurance (i) Life (ii) Annuity (iii) Householders (iv) Medi-Claim
52. Entertainment (i) Club 8 and recreation (ii) Health Club (iii) Gym
53. Holiday and vacations
54. Gifts
55. Legal/litigation expenses
56. Discharge of (i) Credit card(s) payment Liabilities
57. Miscellaneous (ii) Hire purchase/lease (iii) Repayment of Loans (a) House loan (b) Car loan (c) Personal loan (d) Business loan (e) Any other loan (iv) Name of the lenders (v) Mode of repayment (vi) Installment amount (vii) Other personal liabilities (i) Newspapers, magazines, books (ii) Religious contributions/ Charities (iii) Others (specify)
58. Pocket Money/Allowance
59. Other expenditure (Not specified above)
60. TOTAL EXPENDITURE (Give monthly expenditure) 9

PART - VI
STATEMENT OF ASSETS
List of Assets At the time of At the time of Present marriage Separation
Present Estimated Market Value S. No.
61. Assets Real Estate Including (i) Land (ii) Built up properties (iii) Lease hold properties (iv) Agricultural land (v) in Investment real estate such as booking of plots, flats and other immovable properties in your name or in joint names. (vi) Other properties Note

- List your interest in properties, including lease hold interest and mortgages, whether or not you are registered as owner. Note
 - Provide legal descriptions and indicate estimated market value of your interest without deducting encumbrances or costs of disposition. (Record encumbrances under debts.)
- 10 62. Joint Properties (i) Properties presented at or about the time of marriage, which belong jointly to both the husband and wife. Give the status of their possession. (ii) Other joint properties of the parties. Give the status of their possession. (iii) Whether any litigation pending with respect to the joint property?. If so, give particulars. Liquid Assets: (i) Details of all bank accounts including Current, Savings and Demat Accounts in your name, joint name and balance in the said account or (i) (ii) (iii) (iv) Account Number Name of Bank Current Balance (ii) Cash in Hand Particulars Current Value Investments (i) Details of all investments you hold or, in which you have interest and their current value: a) FDRs, NSC, IVP, KVP, Post Office schemes, PPF etc. b) Deposits with Government Non-Government and entities 63.
64. c) Stocks, shares, debentures, bonds, units and mutual funds, etc. d) Life and endowment policies e) Loan given and surrender value to relatives and others friends, f) Other investments not covered by above items 65. Pensions and Retirement Savings Plan Indicate name of institution where accounts are held, name and address of pension plan and pension details. 11 Particulars Maturity amount 66. Corporate/Business Interests Particulars Current value List any interest you hold, directly or indirectly, in any corporation, unincorporated business, partnership, joint venture and Association of Persons, Society etc. trust, 67. Movable Assets Particulars Current value (i) Motor Vehicles (List cars, motorcycles, scooters etc. along with their brand and registration number) (ii) Livestock (iii) Mobile phone(s) (iv) Computer/Laptop (v) Other electronic gadgets including I-pad etc. (vi) TV, Fridge, Air Conditioner, Washing Microwave, machine, etc. (vii) Other household and kitchen appliances (viii) Quantity of gold, silver and diamond jewellery (ix) Quantity of Silver Utensils 68. Intangible properties patents, Including trademark, copyright design and goodwill and their value 69. About disposal of properties Particulars Particulars of properties (movable as well as immovable) sold/agreed to be sold between the date of marriage till the date of

filing of this affidavit the sale consideration received from the purchaser and 12 Present Estimated market value 70. Others Particulars Estimated current value List anything else of value that you own, including precious metals, collections, works of art, jewellery or household items of high value. Include location of safety deposit lockers. PART - VII S. No. Description Particulars of Current Value STATEMENT OF LIABILITIES 71. Secured debt(s) List all mortgages, loans, and any other debts secured against an asset 72. Unsecured Debt(s) List all bank loans, personal loans, credits, overdrafts, credit cards and any other debts 73. Other List any other debts, including obligations that are relevant to a claim Debts S. No. 74. PART - VIII GENERAL INFORMATION RELATING TO THE STATUS, STANDARD OF LIVING AND LIFESTYLE Description Particulars 13 Particulars of residential accommodation where you are presently staying (in sq. feet) 75. Who is the owner of accommodation?. accommodation, specify the monthly rent In case of the residential rented 76. Number of part-time/full time domestic helpers and their wages 77. Average monthly withdrawal from bank(s) 78. Mode of travel in city/outside city 79. Membership of clubs/health clubs/gyms, societies and other associations. Specify the membership fee and subscription 80. Particulars of credit/debit card(s), its limit and usage 81. Particulars of frequent flier cards 82.

83. 84.

85. 86. Frequency of foreign travel, business as well as personal Category of hotels ordinarily used for stay, official as well as personal Category of hospitals opted for medical treatment including type of rooms Brand of vehicle, mobile and wrist watch, pen, sunglasses, wallet/bags. Expenditure ordinarily incurred on family functions including birthday of the children 14 87. Expenditure ordinarily incurred on festivals 88. Expenditure incurred on marriage of family members 89. Status of the deponent and his/her family: - High - Upper Middle - Middle - Lower Middle - Low - Below poverty line PART - IX DOCUMENTS RELATING TO ASSETS, INCOME AND EXPENDITURE DOCUMENTS RELATING TO PERSONAL INFORMATION PART A S. No. Description 1. Ration Card 2. Voter ID Card 3. Aadhar Card 4. Driving Licence 5. PAN Card 6. Passport PART B DOCUMENTS RELATING TO INCOME, ASSETS AND LIABILITIES S. No. Description Please Tick Attached Not Applicable To follow 7. Statement of

Account of all bank accounts including current, savings and Demat accounts for last 3 years 8. Income Tax Return(s) along with Statement of Income and Annexures for last 3 years 9. In case of Salaried Persons (i) Appointment letter along with time of salary structure at appointment. (ii) Last Salary Slip (iii) Forms 16, 16A, 12BA & 26AS (iv) Cost to Company Certificate Certificate, CIBIL and wherever applicable (v) Copies of TDS certificates 10. In case of self-employed persons (i) Balance Sheet and Profit & Loss Account 15 Account (ii) Balance Sheet and Profit & the Loss proprietorship the business is carried on in the name of a sole proprietorship concern firm, of if (iii) firm, of if Account Balance Sheet and Profit & the Loss partnership the deponent is a partner in a firm along with the Schedule showing the distribution of partners and share of profits/losses of the partnership firm and the copy of the partnership deed remuneration (iv) Balance Sheet and Profit & Loss Account of the Company in which the deponent is a Director 16 of Account (v) Balance Sheet and Profit & the Loss Association of Persons, HUF, Joint Family business or trust in which the deponent has share (vi) Copy of account of the deponent in the books of the business (vii) Copies of TDS certificates 11. In case of Income from other sources: (i) (ii) Deed(s)/Rent Lease Agreement(s) /Licence Agreement(s) in respect of the rental income Interest Certificate in respect of income on deposits and investments interest the (iii) Dividend Certificates in respect of dividend income (iv) Demat holding Statement (v) Sale Deed(s)/transfer documents in respect of the profit of property/properties sale on 12. Other relevant documents relating to Income/Assets 13. Other relevant documents relating to liabilities DOCUMENTS RELATING TO EXPENDITURE PART C14 (i) Documents relating the expenditure on education of children including tuition fees to (ii) Rent and maintenance receipts (iii) Electricity, water, security and gas bills 17 (iv) Documents relating the salary paid to the employees including domestic helper(s) to (v) Documents relating to expenditure on conveyance (vi) Debit and Credit Card statements of all cards (vii) Frequent Fliers Card statements (viii) Mobile and landline phone bills (ix) Internet and TV cable/ Set - Top Box bills (x) Documents relating to the re- payment of the loans (xi) PPF, EPF and other superannuation fund receipts (xii) Receipts of premium of insurance policies (xiii) Receipts of payments in respect of mutual funds (xiv) Documents relating to payment of interest on bank and other loans (xv)

Documents relating the payment of taxes, including Income Tax and Property Tax to (xvi) Other relevant documents relating to Expenditure 18 Declaration:

1. I solemnly declare and affirm that I have made full and accurate voluntary disclosure of my income, expenditure, assets and liabilities from all sources. I further declare and affirm that I have no assets, income, expenditure and liabilities other than set out in this affidavit.

2. I undertake to inform this Court immediately upon any material change in my employment, assets, income, expenditure or any other information included in this affidavit.

3. I understand that any false statement made in this affidavit may constitute an offence under Section 199 read with Sections 191 and 193 of the Indian Penal Code punishable with imprisonment upto seven years and fine, and Section 209 of Indian Penal Code punishable with imprisonment upto two years and fine. I have read and understood Sections 191, 193 199 and 209 of the Indian Penal Code.

Verification: DEPONENT Verified at _____ on this ____ day of _____ that the contents of the above affidavit relating to my assets, income and expenditure are true to my knowledge, no part of it is false and nothing material has been concealed therefrom, whereas the contents of the above affidavit relating to the assets, income and expenditure of my spouse are based on information believed to be true. I further verify that the copies of the documents filed along with the affidavit are true copies of the originals. DEPONENT

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