

**Sp vs.rm**

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**SooperKanoon Citation :** [sooperkanoon.com/1210542](http://sooperkanoon.com/1210542)

**Court :** Delhi

**Decided On :** Nov-14-2017

**Appellant :** Sp

**Respondent :** Rm

**Advocate for Def. :** Mr. Lalit

**Advocate for Pet/Ap. :** Mr. Pradeep Narula, Ms. Bhawna Khanna, Ms. Urmila Verma

**Judgement :**

\$~2 \* IN THE HIGH COURT OF DELHI AT NEW DELHI + MAT.APP.(F.C.)  
149/2017 SP RM ..... Appellant Through: Mr. Pradeep Narula, Ms. Bhawna Khanna and Ms. Urmila Verma, Advocate. versus Through: Mr. Lalit, Advocate.  
..... Respondent CORAM: HON'BLE MR. JUSTICE SIDDHARTH MRIDUL  
HON'BLE MS. JUSTICE DEEPA SHARMA % SIDDHARTH MRIDUL, J.

(ORAL) 1.

ORDER

1411.2017 The appellant wife is aggrieved by an order dated 07.07.2017 whereby an application filed by her under Section 24 of the Hindu Marriage Act 1955 (hereinafter referred to as HMA), was dismissed by the Court of the Principal Judge, Family Court Dwarka, New Delhi, by holding that she has sufficient amount and ability to maintain herself; and is therefore, not entitled for any interim

maintenance or litigation expenses from the respondent/husband.

2. The learned Trial Court Judge on a perusal of the application, reply as well as the affidavit of income, assets and liabilities filed by both the parties came inter alia to the following finding:-

"16. A perusal of the application, reply as well as affidavit of income, assets and liabilities filed by both the parties shows that applicant/petitioner is working as Air Hostess in Jet MAT.APP.(F.C.) 149/2017 page 1 of 4 Airways and earning Rs. 55,000/- approximately. She has taken a life insurance of Rs. 6400/-. She is also having account in Standard Chartered Bank, Mumbai. As per her own affidavit, her total expense per month comes out about Rs. 40,000/- to Rs. 45,000/-. The learned Trial Court by way of the impugned order dated 3. 07.07.2017 also recorded the following:-

"21. A bare perusal of the application, reply, affidavit of income, expense and liability and material placed on record by the parties shows that the applicant/petitioner is working as Air Hostess and as per herself admission, she has been earning a sum of Rs. 55,000/- per month from her service. The statement of account of the applicant/petitioner shows that the salary of the applicant/petitioner is not static but it depends upon the working days. In March 2015, she has earned a salary of Rs. 92,776/- whereas in February 2015 her salary was Rs. 65,765/-.

22. The statement of account of the applicant/petitioner shows that petitioner has been earning more than Rs. 55,000/- per month as the salary besides other perks. The above amount was credited into her account after all statutory deductions. Thus her gross income would be much more than the amount shown credited in her account. The petitioner has not placed on record her pay slip which could reflect the gross income of the petitioner. A perusal of the above paragraphs clearly reveal that on her own 4. admission, the appellant has been earning a sum of Rs. 55,000/- per month from her employment with Jet Airways. On the other hand, the respondent, who is a Director in Coveredge Marketing Pvt. Ltd. with 30% share holding in the said organisation, earns a salary of approximately Rs. 59,000 per month.

5. It is further observed that the respondent does not own any house property in his own name and lives in the accommodation owned by his mother. MAT.APP.(F.C.) 149/2017 page 2 of 4 6. In this behalf, the learned Trial Court also observed: 24. Perusal of affidavit and other documents shows that income of both the applicant/petitioner and non- applicant/respondent is almost similar. Even the petitioners income is more than the respondent. Documents placed on record thus clearly shows that applicant/petitioner is having sufficient source of income to maintain herself. She is neither dependent upon her family members nor upon the non- applicant/respondent, therefore, she is not entitled for ad interim maintenance from the non-applicant/respondent as claimed by her. 7. Section 24 of the HMA makes a provision for award of interim maintenance to a spouse who has no independent income sufficient to support him/her during the pendency of matrimonial lis. A Division Bench of this court in Mat. App.(F.C)143/2014 decided on 05.09.2016, titled as Rupali Gupta Vs. Rajat Gupta observed as follows: 7. Section 24 of the Hindu Marriage Act makes a provision for award of interim maintenance to a spouse who has no independent income sufficient to support her and fight the legal battle. In the decision reported as AIR2003 Mad 212 Manokaran @ Ramamoorthy Vs. M. Devaki High Court of Madras while construing the provision of Section 24 of the Hindu Marriage Act and relying on its earlier decision reported as (2002) 2 M.L.J.

760 Kumaresan Vs. Aswathi held that for grant of maintenance pendent lite, the party should not have sufficient independent income for her/his support. 8. The import, object and intent of Section 24 of the HMA is to enable the court to award reasonable maintenance pendent lite and expenses of proceedings to a spouse, who does not have an independent source of income, sufficient to support him or her, and necessary expenses for the proceedings in the court, with a view that the matrimonial proceedings may be continued without imposing any MAT.APP.(F.C.) 149/2017 page 3 of 4 hardship to him or her.

9. In view of the foregoing discussion, and in view of the circumstance that the appellant admittedly earns a sum of Rs. 55,000/- per month from her employment as contrasted with a sum of Rs. 59,800/- earned per month by the respondent, we concur with the view taken by the learned Trial Court in the impugned order and

therefore, find no reasonable ground to interfere.

10. In the present circumstance, the appeal is dismissed. No order as to costs.  
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