

01.05.2025

(महिला कोर्ट)-02, कक्षा संख्या 153
(Mehila Court)-02, Room No. 153
जीवा राजा न्यायालय, दिल्ली

As per the direction issued by Hon'ble DHC vide letter No.01/RG/DHC/2023 dt. 05.06.23 regarding hybrid hearing, the matter is taken up through VC as well as physically.

Present : Sh. Vikrant Sharma, Ld. Counsel for petitioner with petitioner.
Sh. Satyam Soni, Ld. Counsel for respondent.
Respondent in person.

Matter is listed for arguments on interim relief application.

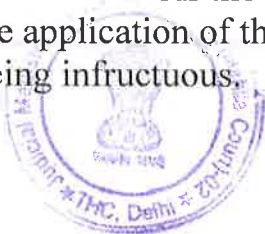
Ld. Counsel for petitioner undertakes to file the supporting documents with the income affidavit during course of the day with advance copy to opposite side.

As the petitioner has not supporting documents petition in compliance of judgement of "Rajnish vs. Neha, Crl. No.730/2020". In the said judgment, it is clearly mentioned that the calculation of arrears for the maintenance will start from the date of application and not from the date of order. The said direction is given considering the fact that a bonafide and diligent petitioner should not be made to suffer because of delay caused by the respondent. The same in no way favours a party who herself fails to make the compliance. The petitioner has not disclosed her income for the purpose of grant of interim maintenance with the petition. The filing of income affidavit alongwith the petition goes in consonance with the judgment of Hon'ble Supreme Court because if the respondent does not file his income affidavit in time he is anyway at disadvantage because arrears will be given from the date of compliance by the petitioner. The application, without the affidavit, cannot be considered an effective application within the scope of "Rajnish vs. Neha (Supra) and if not merely a "bunch of paper", it is definitely not sufficient to grant interim maintenance. For this reason, petitioner cannot be allowed to stack up arrears because of her default as no party can take advantage of their own wrong. Therefore, the date of filing of income affidavit of the petitioner gains importance for the purpose of calculating the arrears. As there is lapse on the part of petitioner in complying the said judgment, it is made clear that arrears for the purpose of interim maintenance shall start from the date of compliance i.e., filing of the income affidavit and not from the date of application seeking interim maintenance.

Let the supporting documents be filed during the course of the day.

At this stage, Ld. Counsel for respondent submits that he is not pressing for the application seeking visitation rights of the minor child as the visitation rights have already been granted by Ld. Family Court to the respondent.

As the custody proceedings are already pending before Ld. Family Court, the application of the respondent seeking visitation rights is disposed off as dismissed being infructuous.



Ld. Counsel for respondent submits that there is another application pending seeking deletion name of resp. no. 2 and 3.

Reply of this application is not on record by petitioner.

Petitioner is directed to file reply of the same during course of the day on with advance copy to opposite side by way of last opportunity.

It is also informed that Ld. Family Court has also directed to clear the arrears of ad-interim maintenance granted by this court within one month from 24.04.2025.

Put up for arguments on interim relief application on 09.07.2025.



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(SHRUTI SHARMA-II)
Judicial Magistrate First Class
(Mahila Court)-02
West/THC/Delhi 01.05.2025
Tis Hazari Court, Delhi