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FAMILY LAW

Estranged Since ’87, Still in Court: Septuagenarian Denied Interim maintenance as Husband’s Means Run Dry

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On 4 August 2025 the Delhi High Court closed the chapter, at least for now, on a battle that began inside a 47-year-old marriage. In MAT.APP.(F.C.) 174/2023, a division bench of Justices Anil Kh. Kh. and Harish Vaidyanathan Shankar upheld a Family Court order that had refused any interim maintenance to 74-year-old retired teacher Yashwani Verma against her estranged husband Virender Verma, 73. The judgment is a concise master-class on how courts balance genuine need against proven capacity when both spouses are well past retirement age.

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The marriage, the separation and the divorce that never was

Yashwani and Virender tied the knot on 22 March 1978 at 4, Cavalry Lines, The Mall, New Delhi. Two sons, Himavan and Vikas, were born in 1980 and 1982. Discord crept in early; by 1987 the couple started living in different homes. When mutual bitterness peaked, they filed a joint divorce petition under Section 13-B of the Hindu Marriage Act in 2003. At the eleventh hour, Yashwani withdrew her consent and the petition lapsed, leaving the marriage legally intact but emotionally broken.

The bigamy petition and the maintenance plea

Nearly four decades after separation, Yashwani learnt that Virender may have remarried and had allegedly sold a property. On 24 February 2021 she invoked Section 17 of the Act before the Principal Judge, Family Courts (North), Rohini, seeking a declaration that any second marriage contracted by Virender was void ab initio. While that petition remains pending, she simultaneously filed an interim application under Section 24 HMA, asking for ?60,000 a month plus litigation expenses to sustain herself during the trial.

The Family Court's refusal

Principal Judge Rohini examined bank statements, income-tax returns and affidavits filed by both sides. The court noted that both litigants were around seventy, had irregular credits in their accounts, and had been living separately by mutual choice for over three decades. It also observed that Yashwani was staying with her two major sons who were gainfully employed. Relying on Section 125(4) Cr.P.C.—which disentitles a spouse living separately without sufficient cause—the court dismissed the maintenance plea on 8 February 2023.

Appeal to the High Court

Yashwani challenged the dismissal through MAT.APP.(F.C.) 174/2023, accompanied by an application condoning a 65-day delay in filing the appeal. The bench readily condoned the delay, recognising sufficient cause.

Rival contentions before the High Court

Yashwani's counsel painted a picture of dwindling health and rising medical costs. She submitted that after retiring in July 2014 from St. Xavier's Senior Secondary School on a monthly salary of ?64,150, she now subsists on a meagre pension of ?2,000 and occasional donations from former students. Virender's counsel countered with documentary evidence: her B.A. (Hons.), M.A., B.Ed., M.Ed. and M.Phil. degrees; private tuitions generating roughly ?40,000 a month; matured LIC policies; and a self-acquired residence. On the other side, Virender claimed unemployment since 2017 when Reliance Communication collapsed, leaving him

with no retiral benefits. He produced loan deeds showing debts of ?23 lakh borrowed from his brother and a friend, and credit-card statements revealing arrears incurred for survival and medical treatment.

Legal yardsticks applied

The High Court reminded both sides that Section 24 HMA is a shield against starvation, not a sword to equalise lifestyles. It drew on a long line of Supreme Court precedents—Neeta Rakesh Jain (2010), Sukhdev Singh (2025), Manish Jain (2017), Rajnesh v. Neha (2021) and Kiran Jyoti Maini (2024)—to emphasise that interim maintenance must be refused where the applicant possesses adequate means or where the respondent lacks the capacity to pay. It also noted the Family Court's reliance on Section 125(4) Cr.P.C. for spouses living apart by mutual consent.

Analysis and findings

The bench found that Yashwani's combined resources (tuition income, pension, matured investments and the support of her two earning sons) outweighed her stated needs. Conversely, Virender's advanced age, unemployment, loss of retiral benefits and crushing debt militated against saddling him with a monthly outgo. The court also observed that the maintenance plea appeared to have been triggered more by the knowledge of Virender's alleged second marriage and property dealings than by any sudden financial distress.

Final order

Finding no infirmity in the impugned order, the High Court dismissed the appeal. It clarified that the observations were strictly confined to the interim stage and should not influence the final adjudication of the pending bigamy petition.

Concluding paragraph

The Delhi High Court's terse 27-paragraph judgment in MAT.APP.(F.C.) 174/2023 is a reminder that age alone does not translate into automatic entitlement. When both partners are on the cusp of seventy-five, courts will sift real need from strategic use, ensuring that Section 24 remains a lifeline for the truly indigent and not a bargaining chip in a long-frozen marital war.

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