

Court No. - 93

Case :- APPLICATION U/S 482 No. - 38226 of 2023

Applicant :- Surat Singh

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Rahul Kumar Tyagi

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

1. The applicant-husband is aggrieved by the order dated 28th July 2023 passed by Additional Principal Judge, Family Court No.1, District Meerut in Case No.868 of 2021 titled Smt. Brahmkor Vs. Surat Singh, whereby a sum of Rs.5000/- per month has been awarded as an interim maintenance to the wife BrahmKor in proceedings under Section 125 Code of Criminal Procedure.

2. Learned counsel for the applicant has argued that the applicant has been erroneously subjected to pay maintenance to his wife, who brought her claim for maintenance on distorted facts by concealing material information. In this regard, he has referred to the claim application to contend that in the first Clause relating to the present and past claim, if any, of this nature, she failed to reveal that previously she had filed a similar claim at Baghpat under Section 125 Cr.P.C. on 7th September, 2018. Apart from this, it is pointed out that the wife of the applicant is owning agricultural land, whereas she has falsely mentioned her status as a housewife. He submits that all these material concealments were highlighted by the applicant, but ignoring the same, learned Family Court has proceeded to accept the claim made by the wife by passing the impugned order. He prays that the impugned order is bad in law, therefore, it deserves be set aside.

3. During the course of hearing, it is not disputed by learned counsel that in the first alleged application filed by the wife under Section 125 CrPC, the husband had never appeared before the said Court and the case was dismissed for non-prosecution. In

the considered opinion of the Court, the Clause as contained in the affidavit would mean that the information is called for in respect of such similar proceedings where the claim was contested by the opposite party, but in the present case, concedely the petitioner was not even served. Thus, the non-disclosure of the earlier case cannot be construed as a material concealment.

4. While examining the second argument advanced by learned counsel that the wife owns an agricultural land in her favour which would prevent her from maintaining her claim of maintenance against the husband is also without any merit, as a perusal of the Annexure-4, which is the records of rights, would reveal that the land holding is jointly owned by the husband and wife and for this the loan was obtained by husband himself. The endorsement in the remarks column shows that applicant Surat Singh had obtained a loan of Rs.1,11,000/- from SBI Bank on 9th October, 2012. The document is prior to the separation of the parties and therefore, this sole revenue entry mentioning the name of the wife along with husband is not enough to hold that she is exclusive owner in possession of the said land.

5. Above all, concededly, the age of the applicant is 62 years who is a retired police officer and is drawing monthly pension of Rs.55,000/-. A perusal of the impugned order reveals that the Trial Court has carefully examined the facts and circumstances of the case and has passed a reasoned order.

6. Thus, considering the facts and circumstances of this case and the amount of maintenance awarded in favour of the wife, which is interim in nature, is not on higher side. Since, the proceedings are yet to be finally decided, therefore, at this stage, this Court is not inclined to exercise the impugned order.

7. Accordingly, this application u/s482 CrPC is dismissed.

Order Date :- 21.11.2023/Priya