

THE HIGH COURT OF TRIPURA
AGARTALA

Crl. Rev. P. No.54 of 2014

1. Smt. Jamuna Debbarma (Murasingh),
wife of Sri Nitya Gopal Murasingh,
2. Miss Tanusree Murasingh,
daughter of Sri Nitya Gopal Murasingh,
3. Master Naba Kishore Murasingh,
son of Sri Nitya Gopal Murasingh,

All are Residents of C/o. Agurai Debbarma,
Daharam Sadar Para, P.O. Amarendra Nagar,
P.S. Bishramaganj, District – Sephaijala, Pin-799 103

(Appellant No.2 and 3 being minor, they are represented by their
mother i.e. the Appellant No.1)

..... **Petitioners**

- Vs -

1. Sri Nitya Gopal Murasingh,
son of Sri Naba Kumar Murasingh,
Residents of Krishnanagar, Nutan Palli,
P.O. Agartala, P.S. West Agartala, District – West Tripura

.....**Respondent**

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioners : Ms. M. Roy, Advocate
 For the respondent : Mr. P. Chakraborty, Advocate
 Date of hearing and : **26.02.2015**
 delivery of judgment & order
 Whether fit for reporting : **NO**

JUDGMENT & ORDER (ORAL)

Heard Ms. M. Roy, learned counsel appearing for the
 petitioners as well as Mr. P. Chakraborty, learned counsel appearing
 for the respondent.

02. This petition filed under Section 19(4) of the Family Courts Act, 1984 is directed against the order dated 25.06.2014 passed by the Judge, Family Court, West Tripura, Agartala in connection with Misc. No.25 of 2013.

03. The grievance as arrayed in this petition is that the quantum of the maintenance determined by the Judge, Family Court, West Tripura, Agartala does not constitute the fair amount of maintenance having regard to the status of the petitioners and the financial competence of the respondent. Those factors have not been considered while determining the quantum. Ms. Roy, learned counsel has referred to the finding of the Judge, Family Court, West Tripura, Agartala which is at para-4 of the judgment dated 10.05.2013 delivered in Misc.(Int) 26 of 2013.

"Heard both sides at length. It appears that the opposite party is an Agri Assistant, Horticulture (West), Seedling Station, Paradise Chowmohani, Agartala, West Tripura, and has been earning about Rs.40,000/- per month from all sources but has not provided any maintenance to the petitioners for their subsistence. Here I find that the petitioner has a good prima facie case."

Ms. Roy, learned counsel for the petitioners further submits that due regard has to be given to the status of the parties and thereafter only the fair amount of maintenance be determined by the court.

04. From the other side, Mr. P. Chakraborty, learned counsel for the respondent has submitted that unless there is a change in the circumstance no person can claim enhancement in the order of maintenance. Moreover, there is no infirmity. Even the petitioners

could not be able to show that the income of the respondent is about Rs.40,000/- as claimed by them.

05. While appreciating the rival contentions as advanced by the learned counsel, this Court is at the outset impelled to observe that the finding that the respondent is an Agri-Assistant in the Department of Horticulture, Government of Tripura has not been questioned by the respondent.

06. Having situated thus, this Court finds that the quantum of the maintenance, with due regard to the status of the parties and also to the aspect of the fair amount, this Court finds that the quantum as has been determined is utterly inadequate. As such, the impugned order is interfered with. The respondents are directed to pay Rs.6,000/- per month by means of money order within 10th day of every English calendar month. The cost of the money order has to be borne by the respondent. If the details of Saving Bank Account of the petitioner No.1 are furnished to the respondent, the respondent is permitted to remit the maintenance amount to the said account. However, the direction that the Joint Director, Horticulture shall deduct the maintenance amount from the salary of the respondent and transmit the same to the petitioner is interfered with and set aside. This is absolutely against the provisions of law. Such order of enforcement or attachment can only be urged or passed if it is found that the respondent has not been making payment in terms of the order of maintenance. This order, however, will not stand in the way to

approach the competent court in appropriate time for enforcement by way of attachment or by sending the respondent to jail.

With this observation and direction this petition stands allowed to the extent as indicated above.

No order as to costs.

JUDGE

MB