

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
CRIMINAL APPELLATE JURISDICTION.**

Criminal Revision Application No.90 Of 2003.

Baburao Sripat Sonwane.
Age: 50 Years, Occ.: Service.
R/o.: Shivajinagar. C.L.10-77-01.
Aurangabad. :: **Applicant.**

Versus

Kacharabai Sripat Sonwane.
Age: 70 Years, Occ.: Agriculturist & Household.
R/o.: Alapurwadi, Tal. Kannad.
Dist. Aurangabad. :: **Non-Applicant.**

Appearance ==>

Mr. V.I. Thole, Advocate for the Applicant. Not Present.

Mr. D.S. Chavan, Advocate for the Non-Applicant. Not Present.

CORAM : V.M. DESHPANDE, J.

DATE : 23rd FEBRUARY, 2015.

ORAL JUDGMENT :-

By the present Criminal Revision Application, applicant is challenging the Judgment and Order dated 2nd February, 2003 passed by the Judge, Family Court, Aurangabad in Petition No.E.536/2002 whereby, the learned Judge of court below directed the present applicant to pay monthly maintenance allowance @ Rs.500/- to the Non-Applicant, from the date of Petition i.e. 9th August, 2002 and also to pay costs of Rs.500/-.

[2] None present for the Applicant and the Non-Applicant.

[3] Non-Applicant before this court is the mother of present Applicant. [For the sake of convenience, they will be referred in the present judgment as mother and son.] Mother was required to file proceedings against her son, since applicant refused and neglected to maintain her. As the mother was unable to maintain herself, therefore, she filed Petition under Section 125 of the Code of Criminal Procedure in the Family Court, Aurangabad against her son for grant of maintenance. In the said Petition, it has been stated that, mother is having two sons and three daughters. All three daughters were married and at present they are residing in their respective houses. Present applicant is the elder son. Non-Applicant is having another son by name Ramesh. She did hard work and taken the care of her sons and thereafter, after completion of education, present applicant got service. He is married. His wife is also serving. Younger son Ramesh is educated unemployed and he use to do some work and use to take care of her mother. However, he is unable to maintain her, therefore, mother filed proceeding against her elder son i.e. present applicant for grant of maintenance allowance. Said petition was contested by the applicant – son. Both the mother and son i.e. present applicant and Non-Applicant entered into the witness-box in order to substantiate their pleadings. According to the applicant, mother is having agricultural land and, therefore, she is able to maintain herself. In the Petition itself, the mother has pointed out that the applicant – son is obstructing her to cultivate the land.

[4] The applicant – son has stated in his examination-in-chief as under :-
“ I have sown land this year on her say. She has also sown land. She had filed a Civil Suit against me before Kannad Court for injunction and injunction was refused.”

From the aforesaid it is clear that, present applicant is in possession of the land and the Civil Suit filed on her behalf is resisted by the

applicant and injunction was refused. Further in the cross-examination, he has admitted as under :-

“It is true, I have sown land today”.

From the aforesaid, it is crystal clear that the applicant is in exclusive possession of the land and mother is unable to cultivate the land, therefore, it gains truth to the pleading made in the Petition by the mother that, applicant-son is not permitting her to cultivate the land.

[5] Further at the time of filing of the Petition No.E.536/02, age of mother is shown as 70 years. Thus, at the fag end of her life, it is not expected that mother should toil in the agricultural field in order to maintain her especially when her son i.e. present application is not only bodily able person but as admitted by him in his written statement, he is serving in the Postal Department, as a Clerk. Further the wife of present applicant is also serving.

[6] In that view of the matter and looking to the fact that only meager amount of maintenance allowance was granted to the extent of Rs.500/- per month, I see no perversity in the impugned judgment. Hence, Criminal Revision Application is dismissed. Rule discharged.

(V.M. DESHPANDE, J.)