

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1083 of 2015

1. Shankerlal Sahu S/o Udlaram Sahu, aged about 55 years, R/o Vill.- Gidhwa, P.S.-Ghumka, Tah. Rajnandgaon, Civil and Revenue Distt. Rajnandgaon (CG).

**---- Petitioner
Non-applicant**

Versus

1. Udlaram Sahu S/o Late Dharamsingh Sahu, aged about 82 years R/o Vill. Gidhwa, P.S. - Ghumka, Tah. - Rajnandgaon, Civil and Revenue District Rajnandgaon (CG).

**---- Respondent
Applicant**

For Petitioner:

Shri Rakesh Kumar Thakur, Advocate

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

25/01/2016

1. Heard on I.A. No.1/2015, application for condoning the delay of 70 days in filing this revision.
2. For the reasons assigned in the application, the same is allowed. Delay in filing this revision is condoned.
3. Heard on admission.
4. Challenge in this revision is to the order dated 16.6.2015 passed by the Family Court, Rajnandgaon in Misc. Cr. Case No.26/2013 directing the applicant herein to pay Rs.1,300/- per month as maintenance to the respondent herein.
5. The respondent herein, father of the applicant herein, filed an application under Section 125 Cr.P.C. before the Court below claiming maintenance from the applicant contending that he is aged person suffering from Tuberculosis and is not possessed of sufficient means to maintain himself. Whereas, the applicant owns 9 acre agriculture land and earns Rs.1 Lac per annum in addition to income of Rs.4,000/- per month by serving as a

Peon and therefore he is liable for his maintenance. The applicant contested the said application by pleading that the respondent is possessed of sufficient means to maintain himself as he owns about five acre agriculture land over which he is carrying out agricultural activities. Since the respondent is capable of maintaining himself, he is not entitled to receive any maintenance amount from the applicant herein. The Court below vide order impugned partly allowed the application of the respondent herein and directed the applicant to pay maintenance of Rs.1,300/- per month to the respondent herein.

6. Counsel for the applicant submits that the Family Court while passing the impugned order has lost sight of the fact that the respondent herein is possessed of sufficient agriculture land and thus having sufficient means to maintain himself. He further submits that the applicant has received only one acre of agriculture land in the partition and his family members are also dependent on him.
7. In the impugned order a categorical finding has been recorded by the Court below that the respondent is very old & sick, he is unable to do any work and he does not appear to have anything in his possession which could be sufficient to maintain himself in these costly days. In this situation, the applicant being the only surviving son of the respondent is obliged to maintain the respondent, who is unable to maintain himself. The law in this regard is also settled that a son has to maintain his aged & infirm parents irrespective of the fact whether he inherits any property or not from them as on the basis of relationship alone he owes a duty and an obligation, legal and moral, to maintain his parents who gave birth to him. The dominant purpose behind the benevolent provisions contained in Section 125 Cr.P.C. is also that the wife, child and aged or infirm parents should not be left in helpless state of distress, destitution and starvation. Thus, the order impugned granting maintenance to the respondent is left as it is without making even the slightest meddling with it.
8. The revision being without any substance is liable to be dismissed and is, accordingly, dismissed in limine.

Sd/-
(Pritinker Diwaker)
Judge

roshan/-