

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Family Court Appeal No. 13 of 2014

Ashok s/o. Vasantao Kulkarni,
Age : 57 years,
Occupation : Bhikshuki,
R/o. At present Vadala Mahadeo,
Taluka : Shrirampur,
District : Ahmednagar.

.. Appellant
(Original defendant)

versus

Shruti d/o. Ashok Kulkarni
(Deceased) through her mother
Vidya Ashok Kulkarni,
Age : Major, Occ. : Household,
R/o. K-61, Bajrang Chouk,
Opp. Janki Hospital,
N-7, CIDCO, New Aurangabad.

.. Respondent
(Original plaintiff)

.....

Mr. K.M. Nagarkar, Advocate, for the appellant.

Mr. Siddharth R. Deshpande, Advocate, for the respondent.

.....

**CORAM : S.V. GANGAPURWALA &
A.M. BADAR, JJ.**

DATE : 19TH JANUARY 2016

COURT'S ORDER (Per S.V. Gangapurwala, J.) :

1. Mr. Nagarkar, the learned Counsel for the appellant, submits that the Family Court committed an error in partly allowing the

maintenance application filed by the deceased respondent. The maintenance of Rs. 2,000/- per month is awarded. The appellant is not responsible for the respondent residing separately. The appellant is a *Bhikshuk*. He does not have any permanent source of income. It is beyond the capacity of the appellant to pay the said amount to the respondent. The said aspect ought to have been considered by the Court. Even the respondent in a statement has also accepted that she has deposed falsely. She has also admitted that the appellant does not have work in hand and only occasionally gets the work of performing *Puja*. The appellant has regularly paid the amount of Rs. 500/- per month to the present respondent. The amount awarded is exorbitant.

2. Mr. Deshpande, the learned Counsel for the respondent, submits that the daughter Ms. Shruti has expired and the mother is brought on record who is also residing separately from the appellant and she was residing with deceased Shruti. The 7/12 extracts and Form No.8 are filed on record. The appellant has got Survey Nos.115 and 117 situated at Wadala Mahadev in his name. The appellant has sown Soyabean, Bajari, etc. on the said land.

3. We have considered the judgment delivered by the Family Court. Certainly, the appellant would be required to pay maintenance as awarded by the Family Court, only till the date of death of the deceased respondent. It would appear that the appellant is the father of the deceased and was duty bound to maintain the daughter. The Family Court has relied upon 7/12 extracts wherein Survey Nos. 115 and 117 are in the name of the appellant.

4. Be that as it may, an amount of Rs. 2,000/- per month would not be exorbitant. In the light of the above, the Family Court has not committed any error.

5. The Appeal is accordingly dismissed with a rider that the appellant would be liable to pay the maintenance only till 20th August 2015, to the respondent who is now being represented by the mother. The amount already deposited shall be adjusted. The Appeal accordingly stands disposed of.

(A.M. BADAR)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

.....