

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

Criminal Writ Petition No. 727 of 2006

District : Jalna

Tukaram s/o. Sampatrao Mujmule,
Age : 30 years,
Occupation : Agriculture & Labour,
R/o. Nandra, Taluka Partur,
District Jalna. .. Petitioner.

versus

1. Vithabai w/o. Tukaram Mujmule,
Age : 32 years,
Occupation : Household,
R/o. Narendra Pralhad Anande,
C/o. Baburao Waluba Patil Salunke,
N-11, H-3/16, Navnathnagar,
Pawar House, HUDCO, Aurangabad.
2. Ku. Vaishnavi D/o. Tukaram Mujmule,
Age : 2 years, Occ. : Minor,
Under guardianship of her mother,
R/o. As above. .. Respondents.

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*Mr. Vaibhav Pawar, Advocate, holding for
Mr. S.S. Tope, Advocate, for the petitioner.*

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CORAM : Z.A. HAQ, J.

DATE : 17TH NOVEMBER 2016

ORAL ORDER:

This Writ Petition is listed in order
matters with the office note that the notice of

respondent no.1 could not be served for want of time. As the petition is of the year 2006, I have examined the matter with the assistance of the learned Advocate for the petitioner. The learned Advocate for the petitioner was ready with the matter and showed his willingness to proceed.

2. Heard the learned Advocate for the petitioner.

3. The petitioner has challenged the order passed by the Family Court directing the petitioner to pay maintenance to respondent nos.1 and 2 (wife and minor child of the petitioner).

4. The contention on behalf of the petitioner is that he is not having any source of income and he is doing labour work and it is not possible for him to pay Rs. 1400/- per month towards maintenance to respondent nos.1 and 2.

5. It is not the defence of the petitioner that he is physically unfit to do any work. On the contrary, according to the petitioner, he is doing labour work. Considering the age of the petitioner and the ages of respondent nos.1 and 2, in my view, the amount of maintenance granted by the Family Court is proper. Much is argued on the point that 3 Acres of agricultural land owned by the joint family of the

petitioner is mutated in the name of present respondent no.1 and therefore, respondent no.01 is not entitled to claim the amount of maintenance as she is having sufficient income from the agricultural land.

6. The learned trial Judge has considered the evidence on record and has recorded that 3 Acres of land which is mutated in the name of present respondent no.1, is given on *Batai* to Sakharam (uncle of the petitioner).

7. The order passed by this Court on 11th June 2007 shows that the present petitioner was granted liberty to cultivate 3 Acres of land mutated in the name of present respondent no.1. The petitioner has not made any grievance since 2007 that he is not allowed to cultivate 3 Acres of land mutated in the name of respondent no.1.

8. In the above facts, I see no reason to interfere with the impugned order. The Writ Petition is dismissed. Rule is discharged. Parties shall bear their own costs.

(Z.A. HAQ)
JUDGE

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