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

CRIMINAL WRIT PETITION NO. 1284 OF 2015

Sadashiv s/o Gavnaji Patil Tupe,
Age: 46 years, Occu: Agril.,
R/o. Narala, Tq. Phulambri,
Dist. Aurangabad

..PETITIONER

VERSUS

1. Smita w/o Sadashiv Tupe,
Age: 39 years, Occu: Household,
R/o. C/o. Machindra Kachru Neel,
Nageshwarwadi, Aurangabad

2. Mrunmayee d/o Sadashiv Tupe,
Age: 9 years, being minor,
Under Guardianship of
Smita w/o Sadashiv Tupe,
R/o. C/o. Machindra Kachru Neel,
Nageshwarwadi, Aurangabad

..RESPONDENTS

Mr R. D. Bhise, Advocate for petitioner;
Mr R. K. Jadhavar, Advocate for respondents

**WITH
CRIMINAL APPLICATION NO. 1965 OF 2016
IN
CRIMINAL WRIT PETITION NO. 1284 OF 2015**

Smita w/o Sadashiv Tupe & anr.

..APPLICANTS

VERSUS

Sadashiv s/o Gavnaji Patil Tupe

..RESPONDENT

Mr R. K. Jadhavar, Advocate for applicants;
Mr R. D. Bhise, Advocate for respondent

CORAM : N.W. SAMBRE, J.

DATE : 5th April, 2016

ORAL ORDER :

The learned Family Court ordered maintenance of Rs. 2,500/- p.m. and Rs. 1,500/- p. m. respectively, to respondent Nos. 1 and 2. The fact remains that qualification of the petitioner is Technical Graduate and on record, it is brought that the petitioner owns about 14 Acres of land.

2. While trying to make out a case for remand, Mr. Bhise, learned Counsel appearing on behalf of the petitioner has invited attention of this Court to the medical prescription issued by Dr. Rajankar from Aurangabad giving certain medicines on 28th January, 2015. Learned Counsel then submits that cross-examination of respondent No. 1 was recorded on 6th April, 2015 and as he was indisposed, he could not give appropriate instructions to his lawyer.

3. The claim is opposed by the learned Counsel appearing on behalf of the respondents, who submits that appropriate opportunity was given to the petitioner and order awarding reasonable maintenance came to be passed.

4. Upon perusal of the record, it depicts that learned Family Court, while awarding maintenance has considered earning capacity of petitioner, particularly the agricultural land holding of petitioner and his qualification.

(3)

5. Apart from above, the absence of present petitioner, at the time of recording of evidence of respondent No. 1, was not required. It is then to be noted that, there is no genuine reason which can convince the Court to form an opinion that there was denial of opportunity to the petitioner at the time of recording of cross-examination of respondent No. 1. The overall reading of the order passed by the learned Family Court awarding maintenance of Rs. 2,500/- p.m. to respondent No. 1-wife and Rs. 1,500/- p.m. to respondent No. 2-daughter, in my opinion, is based on sufficient evidence.

6. In view of above, in my opinion, no case for interference is made out. Writ Petition fails and same stands dismissed.

7. In view of disposal of writ petition, Criminal Application No. 1965 of 2016 for withdrawal of amount, stands allowed.

(N.W. SAMBRE, J.)

sjk