

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CR No.1736 of 2016 (O&M)
Decided on: 18.03.2016**

Vir Singh

....Petitioner

Versus

Supyar Devi

....Respondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Abhishek Yadav, Advocate
for the petitioner.

REKHA MITTAL J.

By invoking Article 227 of the Constitution of India, the present petition lays challenge to orders dated 12.08.2014 (Annexure P-2) passed by the Civil Judge (Junior Division), Rewari and dated 18.04.2015 (Annexure P-4) passed by the District Judge, Rewari, whereby claim of the respondent for grant of maintenance under Hindu Maintenance and Adoption Act, has been allowed and she has been awarded maintenance @ Rs.1,500/- per month from the date of petition.

Counsel for the petitioner has urged that the respondent is admittedly wife of the petitioner and their marriage was performed in March, 1984 at village Kharkhara, Tehsil and District Rewari and out of their wedlock one daughter namely Poonam was born. It is argued that the respondent is not entitled to get any maintenance as father of the petitioner transferred land measuring 11 kanals 16 marlas in favour of the respondent on the basis of compromise effected between the parties

though later the respondent failed to honour the compromise and withdraw the litigation pending between the husband and wife. It is further submitted that as land measuring about 1½ killa stands transferred in the name of respondent, reflected in copy of mutation (Annexure P-1), plea of the respondent that she has got no source of income or is entitled to get maintenance from her husband gets falsified and belied.

I have heard counsel for the petitioner, perused the records particularly the orders dated 12.08.2014 passed by the trial Court and dated 18.04.2015 passed by the Appellate Court, whereby claim of the respondent (wife) for maintenance was allowed by the trial Court and the judgment passed by the trial Court was affirmed in appeal.

Before dealing with the submissions made by counsel for the petitioner, it is pertinent to note that the Revisional Court cannot reappraise and reappreciate the evidence in order to record a finding different from what has been held by the Courts below. It is an undisputed position of the case that the petitioner did not file any reply to the petition and his defence was struck-off vide order dated 17.08.2006. The evidence adduced by the respondent in support of averments set-up in the petition remains unrebutted and unchallenged. The document (Annexure P-1) is not a part of records before the trial Court. Assuming that father of the petitioner transferred land measuring 11 kanals 16 marlas in favour of the respondent vide document dated 23.08.2010 referred to in Column No.13 of Annexure P-1, there is nothing on record suggestive of the fact that the respondent is in

possession of the said land and reaping its fruits by way of cultivation, etc.

Counsel for the petitioner has submitted that compromise effected between the parties on the basis whereof the land was stated to be transferred in favour of the respondent did not reach fruition as the respondent did not withdraw the cases/litigation pending between the parties. It is difficult to believe that father of the petitioner parted with possession of land in favour of the respondent even before she performed her obligation under the alleged compromise between the parties. In absence of any evidence that the respondent is in possession of land statedly transferred in her favour by father of the petitioner, the petitioner otherwise cannot derive any advantage to his contention from Annexure P-1 in order to point out any fault in the consistent findings of the Courts below or escape his liability to pay maintenance to his wife when otherwise the amount of maintenance awarded may not be sufficient to satisfy the need of two square meals of the respondent. Analyzed from any angle, I do not find any error much less illegality in the findings recorded by the Courts below.

For the reasons aforestated, finding no merit, the petition is dismissed *in limine*. No order as to costs.

(REKHA MITTAL)
JUDGE

18.03.2016
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