

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Art. 227) No.464 of 2017

1. Resham Lal, aged about 45 years, S/o Melu Ram Dahire,
 2. Melu Ram Dahire, aged about 65 years, S/o Madho Dahire,
- Both R/o Majhwa Para, Jarhabhata, Ward No.12, Bilaspur, Tah.
and Distt. Bilaspur (C.G.)
- (Non-applicants)
---- Petitioners

Versus

Smt. Vimla Dahire, aged about 42 years, W/o Late Rahas Lal
Dahire, R/o Majhwa Para, Jarhabhata, Ward No.12, Bilaspur,
Tah. and Distt. Bilaspur (C.G.)

(Applicant)
---- Respondent

For Petitioners: Mr. Ravindra Agrawal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

11/07/2017

1. The Additional Principal Judge, Family Court, Bilaspur by its
impugned order dated 17-4-2017 granted ₹ 2,000/- per month to
the respondent as interim maintenance.
2. Learned counsel for the petitioners submits that there is no
provision for interim maintenance while entertaining an
application for maintenance under Section 22 of the Hindu
Adoptions and Maintenance Act, 1956 and the respondent has
not established to be the dependent of the petitioners and her
husband has left the property which is inherited by the present
petitioners, therefore, the impugned order deserves to be set

aside.

3. I have heard learned counsel for the petitioners and perused the impugned order.
4. Respondent Smt. Vimla Dahire is wife of Late Shri Rahas Lal Dahire, petitioner No.1 is her husband's brother and petitioner No.2 is her father-in-law. As per Section 21 (vi) and (vii) of the Hindu Adoptions and Maintenance Act, 1956 (for short, 'the Act of 1956'), claiming to be the dependent of the petitioners, the respondent has filed an application for grant of maintenance under the Act of 1956 which is pending consideration and meanwhile, she has made application for grant of interim maintenance holding that she is unable to maintain herself. Section 22 of the Act of 1956 which provides for grant of maintenance to the dependents of the deceased out of the estate inherited by them from the deceased is a beneficial provision.
5. The Supreme Court in the matter of **Jagdish Jugtawat v. Manju Lata and others**¹ has held that the benefit of personal law for awarding or continuing maintenance can be given to the applicant under Section 125 of the CrPC to avoid multiplicity of proceedings and that has to be considered strictly since the substantive application is pending consideration. Their Lordships in the operative portion of the judgment observed as under: -

1 (2002) 5 SCC 422

“4. Applying the principle to the facts and circumstances of the case in hand, it is manifest that the right of a minor girl for maintenance from parents after attaining majority till her marriage is recognized in Section 20(3) of the Hindu Adoptions and Maintenance Act. Therefore, no exception can be taken to the judgment/order passed by the learned Single Judge for maintaining the order passed by the Family Court which is based on a combined reading of Section 125 CrPC and Section 20(3) of the Hindu Adoptions and Maintenance Act. For the reasons aforesaid we are of the view that on facts and in the circumstances of the case no interference with the impugned judgment/order of the High Court is called for.

6. Therefore, in the present case, the Family Court is absolutely justified in granting interim maintenance to the respondent till the main application is decided finally. I do not find any judicial error in the impugned order and also any merit in the present petition. The petition is, therefore, dismissed, in limine. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge