

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No. 199 of 2016**

- K.Shanker Rao S/o Late K. Guriyya Telugu, Aged About 48 Years R/o Qr. No. 6b, Street No.2, Zone-3, Sector-11, Khursipar, Bhilai, Tahsil & District Durg, Chhattisgarh(Non-Applicant)

---- Appellant**Versus**

1. K.Padmawati W/o K. Shanker Rao, Aged About 41 Years R/o Zone-2, Sector-11, Qr. No.15/ D, Street No.52, Khursipar, Bhilai, Tahsil & District- Durg, Chhattisgarh
2. Ku. K. Saraswati D/o K. Shanker Rao, Aged About 24 Years Attained Majority C/o K. Padmawati, R/o Zone-2, Sector-11, Qr. No.15/ D, Street No.52, Khursipar, Bhilai, Tahsil & District- Durg, Chhattisgarh
3. Ku. K. Mamta D/o K. Shanker Rao, Aged About 22 Years Attained Majority C/o K. Padmawati, R/o Zone-2, Sector-11, Qr. No.15/ D, Street No.52, Khursipar, Bhilai, Tahsil & District- Durg, Chhattisgarh (Applicants)

---- Respondents

For Appellant	:	Shri P. R. Patankar, Advocate
For Respondents	:	Shri M.P.S. Bhatia, Advocate

Hon'ble The Chief Justice
Hon'ble Shri Justice Sanjay Agrawal

Order On Board**25/01/2017****Per Deepak Gupta, Chief Justice**

1. By means of this appeal, the appellant has challenged the order dated 12.08.2016 passed by 3rd Additional Principal Judge, Family Court, Durg, whereby the learned Family Court has enhanced the maintenance from Rs.1500/- per month to Rs. 3500/- per month each payable to respondents No.2 & 3, from 24.07.2008, i.e., the date of application till their marriage.

2. The main ground raised is that both the girls have attained majority, and therefore, in terms of Section 26 of the Hindu Marriage Act, they are not entitled to claim maintenance after attainment of majority. The other ground which is urged is that the elder daughter is earning, and therefore, she is not entitled to claim maintenance.

3. As far as the first point is concerned, it is not disputed that the girls have attained majority. However, it is submitted by Shri Patankar that in view of the order passed by the Supreme Court in Special Leave Petition filed by the appellant himself, the daughters are entitled to get maintenance until they are married.

4. With regard to the allegation that the elder daughter is working, the same is denied by the respondents' counsel and it is stated that the said daughter is actually studying M.Tech. and there is no proof filed by the appellant that the daughter is actually working.

5. The girls have attained majority but have not married. The order of the Apex Court dated 07.03.2011 reads as follows:

“Upon hearing counsel the Court made the following
O R D E R

Leave granted.

Hearing of the appeal is expedited.

The judgment and order dated 23.12.2004 passed by the 7th Additional District Judge (FTC), Durg, is modified to the extent that both the daughters would continue to get maintenance until they are married and the respondent would also continue to get maintenance till the final disposal of this appeal.

Learned counsel appearing for the appellant, on instructions submits that all the arrears of maintenance would be paid to the respondents within four weeks from today.”

6. This order makes it ample clear that the Supreme Court, in the facts and circumstances of the case, held that both the daughters would continue to get maintenance until they are married. One daughter is studying M.Tech. and the other is studying B.A. and the maintenance of Rs.3,500/- awarded to each of the daughters cannot be said to be excessive.

7. It has been strenuously urged before us that the daughters have attained majority, and therefore, cannot get any maintenance. We are bound by the orders of the Supreme Court, which is law within the meaning of Article 141 of the Constitution of India. It is not within our jurisdiction to question the correctness of the order of the Supreme Court. If the appellant so desires, he may approach the Supreme Court for appropriate direction.

8. In view of above, we find no merit in this appeal, which is dismissed.

Sd/-

(Deepak Gupta)
Chief Justice

Sd/-

(Sanjay Agrawal)
Judge