

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 355 of 2017

Mantram Lodhi, S/o. Shri Dujram Lodhi, Aged About 32 Years, R/o. Village Jaitpuri, Police Station -Nandghat, Tahsil -Nawagarh, District - Bemetara, Chhattisgarh.

---- Applicant

Versus

1. Smt. Satwantin Bai, W/o. Mantram Lodhi, Aged About 30 Years
2. Ku. Madhuri, D/o. Mantram Lodhi, Aged About 5 Years,
3. Dev Kumar, S/o. Mantram Lodhi, Aged About 9 Months,

Non-applicant No.2 & 3 are Minors, Through : Natural Guardian Mother Namely Smt. Satwantin Bai, W/o. Mantram Lodhi.

All are R/o. Village -Dhodhapur, Post Office -Chhinbhog, Tahsil -Pathariya, District - Mungeli, Chhattisgarh.

---- Respondents

For Applicant : Ms. Pritha Ghoshal, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

04/04/2017

1. This revision is against the order dated 27.02.2017, passed in Criminal Revision No.57/2015, passed by learned Additional Sessions Judge, Mungeli, District – Mungeli, whereby the revision preferred by the wife and minor children was allowed and the applicant/husband was directed to pay Rs.1,000/- to the wife and Rs.750/- to each of the minor children by way of interim maintenance.

2. Learned counsel for the applicant would submit that wife herself has deserted the husband and she has been given a land by the husband where from she is earning. It is further submitted that she is also in possession of 8 to 10 acres of land, where from she is able to earn and the husband is a labour, therefore, he would not be able to pay the amount of maintenance awarded.
3. Perused the order of the Revisional Court. Admittedly, respondent No.1 is the wife and respondent No.2 and 3 are the children and the applicant is husband. Revisional Court order records that there has been dispute in between the parties as was primarily submitted by the parties for demand of dowry and as such certain meetings were also called in the village. Though the Court records that respondent is in possession of the land of 0.270 hectares but it do not mean to show that whether she is able to earn therefrom. The factual aspect to continue the livelihood can not go without the financial support and merely certain property are in the name of the wife, it will not presumed that she is able to earn therefrom to cater her day to day bare necessities. It is a matter to be decided during the final adjudication of the claim when the parties adduced their evidence as to whether the wife is able to earn of her own vis a vis the husband is unable to earn. Relation inter-se between the parties are not in dispute. Consequently, the award of Rs.1,000/- to the wife and Rs.750/- to each of the minor children, considering the price index which is prevailing in the society can not be termed as exorbitant.

4. Taking into the fact and further after going through the order, in my considered opinion no jurisdictional error has been committed or it can be stated that it is a case where the Court has exceeded the jurisdiction vested in it by law. Therefore, considering the same I am not inclined to interfere with such finding to disturb the interim maintenance granted to the non-applicants.
5. Accordingly, the petition has no merit and is dismissed at admission stage itself.

Sd/-
(Goutam Bhaduri)
Judge

Balram