

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 885 of 2015

1. Murarilal Sahu S/o Jagdish Prasad Sahu Aged About 46 Years
R/o Village Dabaripara, Police Station Patna, Tah.
Baikunthpur, Distt. Korla Chhattisgarh.
2. Jagdish Prasad Sahu S/o Late Devkaran Sahu Aged About 75
Years R/o Village Dabaripara, Police Station Patna, Tah.
Baikunthpur, Distt. Korla Chhattisgarh.
3. Smt. Koushalya Devi W/o Jagdish Prasad Sahu Aged About 70
Years R/o Village Dabaripara, Police Station Patna, Tah.
Baikunthpur, Distt. Korla Chhattisgarh. --- **Applicants**

Versus

- Smt. Sushila Devi D/o Ramsewak Sahu Aged About 40 Years
W/o Vijendra Prasad Sahu, R/o Ward No. 6, Behind Janpad
School, Hetram Coloy, Baikunthpur, Distt. Korla Chhattisgarh.
--- **Non-applicants**

For the applicants	:	Mr. J.K. Shastri, Advocate
For the State	:	Mr. P.P. Sahu, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

04.04.2017

1. This revision is against the order dated 06th August, 2015 passed by the Additional Sessions Judge, Baikunthpur in Appeal No.04 of 2015 whereby the respondent was directed to be paid interim maintenance of Rs.2000/-.
2. Brief facts of the case are that an application u/s 12 of the protection of Women from Domestic Violence Act 2005 was filed by the respondent Smt. Sushila Devi, widow of late Radhe Shyam Sahu. Along-with main petition, prayer was also made for interim maintenance under Section 23 of the

Act. It was alleged that on 10.02.2009 the applicants entered into the house of non-applicant, took away the goods and thereafter evicted her from the house. When she requested to allow her to stay in the house, threat was extended and she was abused. Consequently she had to come back to her maternal house at village Odgi. It is further alleged that the applicants got mutated the name of applicant no.1 in the revenue records and are getting the benefit of income by cultivating the lands and no amount of maintenance and expenses for medical treatment, house rent etc., are given to the non-applicant. Therefore, the interim maintenance may be awarded.

3. Per contra, these applicants had submitted that no violence was made with the non-applicant and the non-applicant daughter-in-law (claimant) has performed marriage with another person and thereafter residing with him. Consequently she is not related to the applicants and as such she is not entitled to any maintenance or relief.
4. Learned counsel for the applicants referred to certain documents and read out the statement of one Anita Sahu filed along-with this petition and would submit that the non-applicant had performed the marriage with the husband of Anita Sahu and therefore, it would show that the non-applicant has no relations with the applicants. It is further submitted that since the relation itself is denied, therefore, entitlement of payment of compensation do not arise and the orders of the courts below are completely illegal as prima-facie it shows that the non-applicant was not related to the applicant.

5. Per contra, learned counsel for the respondent referred to certain documents filed along with the petition especially Annexure R-2 and would submit that the certificate given by the Nagar Palika Parshad, Baikunthpur, would show that the respondent was wife of late Radhe Shyam Sahu who is brother of Murari Lal, applicant No.1 and son of Jagdish Prasad Sahu, therefore, she is daughter in law of Jagdish Prasad Sahu, and the interim maintenance granted to her is completely just and legal which do not require any interference.
6. Perused the order of court below. It appears that interim maintenance was sought by filing application alongwith the prayer in main petition u/s 23 of the Protection of Women from Domestic Violence Act, 2005. The learned Magistrate has awarded Rs.1000/- as an interim maintenance by order dated 24.12.2014. Against that order, both the parties i.e., respondent Sushila Dev and applicants Murarilal, Jagdish Prasad and others preferred different appeals. The appeal preferred by Murarilal Sahu and others was numbered as 04/2015 and the appeal preferred by respondent Sushila Devi was numbered as 22/2015 which were decided by common order dated 06th August, 2015. By such order, the maintenance of Rs.1000/- per month awarded by the trial Court was enhanced to Rs.2000/- per month with effect from 24.12.2014.
7. The original record also perused. The original record would show that a certificate styled as Widow Certificate was issued by Gram Panchayat Dabripara, Janpad Panchayat Baikunthpur, Distt. Korea which purports that Sushila Sahu is

shown as widow of late Radhe Shyam, son of Jagdish Prasad applicant No.2 herein. It is further stated that the marriage took place in the year 1991 and after the marriage, Sushila Sahu stayed with Radhe Shyam at their house at village Dabripara and Radhe shyam Sahu died on 05.10.2008.

8. B-1 record also shows that the name of Radhe Shyam was deleted and the names of Murarilal, Jagdish Prasad were mutated. The copy of order passed by Tahsildar also shows that on the basis of will executed by late Radhe Shyam in favour of applicant No.1 Murarilal, the name of Murarilal was directed to be recorded. Accordingly, the name of applicant No.1 Murarilal, son of Jagdish Prasad Sahu was recorded in respect of land held by late Radhe Shyam Sahu that is on the basis of will.
9. Taking into such facts situation of the case and since the the award appears to be interim maintenance, the said document filed by the respondent cannot be ignored which prima facie shows the *interse* relation between the parties as late Radhe Shyam Sahu is shown as son of Jagdish Prasad Sahu and brother of Murari Lal Sahu. From the certificate issued by the Gram Panchayat Dabripara, the relation of respondent Sushila Devi has been shown as wife of Radhe Shyam Sahu. Therefore, at this stage, prima facie it do not show that she was married to another person after death of Radhe Shyam. The reliance on the statement placed by the counsel for the applicants cannot be accepted as gospel truth as it is a matter of evidence which can only be adjudicated after the evidence of parties. Prima facie, at this stage, if the averments of the applicants are accepted then

consequently the submission made by non-applicant cannot also be ignored. The entire issue regarding relation between the parties is to be settled after the evidence is adduced. Considering the prima facie relations, the award of interim maintenance of Rs.2000/- cannot be said to be invalid.

10. In the result, no illegality appears to have been committed by the court below. Consequently, the revision has no merit and is dismissed. The registry is directed to return the records of the court below forthwith.

**Sd/-
GOUTAM BHADURI
JUDGE**