

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 1149 of 2016

1. Dwarika Prasad, S/o. Late Shri Kripal Sahu, Aged About 40 Years, Occupation- Agriculturist, R/o. Village Mongrapali, Police Station Bagbahara, District- Mahasamund, Chhattisgarh.
2. Leelaram, S/o. Late Shri Kripal Sahu, Aged About 38 Years, Occupation- Agriculturist, R/o. Village Mongrapali, Police Station -Bagbahara, District -Mahasamund, Chhattisgarh.

---- Applicants

Versus

1. Smt. Fagni Bai, W/o. Late Kripal Sahu, Aged About 40 Years, Occupation- Housewife, R/o. Village Mongrapali, Police Station- Bagbahara, District -Mahasamund, Chhattisgarh.

---- Respondent

For Applicant : Mr. V.K. Pandey, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

21.06.2017

Heard

1. This revision is against the order dated 18.10.2016, passed in Misc. Criminal Case No.105/2016, passed by learned Family Court, Mahasamund (C.G.), wherein maintenance award of Rs.1,500/- has been granted to the respondent – Smt. Fagni Bai, who is mother of the applicants.
2. Learned counsel for the applicants would submit that though the respondent is the mother of the applicants, however, she herself started living in adultery and further she is possessed

with landed property in her name, therefore, she is not entitled for any relief.

3. Perusal of the order would show that relation inter-se between the parties are not in dispute that respondent is mother of the applicants. The order of the trial Court would show that respondent was married to Kripal Sahu and out of the wedlock, the applicants and daughter were born and the daughter was married. The husband of the respondent, Kripal Sahu had land for that it was alleged by the sons that their mother was not legally wedded wife. The statement of Fagni Bai as reflects in the order sheet would show that she was having land at village-Mongrapali, however, the mother was dispossessed by the applicants and the applicants have taken possessions of the land. The applicants had stated that the respondent eloped with another person in 1996 and has abandoned the family and was living in adultery.
4. The trial Court while evaluating the evidence has come to the conclusion that the applicants have only stated that mother was living along with one Kamdev from 1996 to 2013 but no evidence was adduced that she was in possession of her agricultural land and was doing agricultural work for her livelihood on the contrary it is stated that mother was dispossessed of her land by the sons.
5. The witness on behalf of the applicants namely Somnath (D.W.-2) has stated that he is not in know of the fact that whether the respondent-mother herein is in possession of the land or not and who is cultivating the same, therefore, no evidence virtually

is on record to show that respondent was in possession of the land. As against this, respondent - mother has stated that she is getting pension of Rs.350/- and 7 kg of rice from the State and she is unable to maintain herself from that and therefore, she prayed for maintenance. Considering the facts, the trial Court has directed to pay Rs.750/- - 750/- by each of the son by aggregating Rs.1500/- to the mother.

6. Perusal of the order and evaluating the evidence, nothing has been pointed out by the applicants that respondent is earning and is able to maintain herself. In any case an amount of Rs.750/- each by two sons separately has been ordered to be paid by the sons can not be stated to be exorbitant and inflated taking into the price index which is prevailing in the market. The relation inter-se between the parties are not in dispute, the applicants are sons, therefore have moral obligations also to maintain their mother.
7. After evaluating the prima-facie facts and 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, I am not inclined to interfere with such finding to disturb the maintenance granted to the respondent -mother.
8. Accordingly, the revision petition has no merit and it is dismissed at admission stage itself.

Sd/-
(Goutam Bhaduri)
Judge