

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

14 FAMILY COURT APPEAL NO. 5 OF 2017

BALASAHEB DEORAO WANKHEDE
VERSUS
USHATAI BALASAHEB WANKHEDE & ORS.

...
Advocate for Appellant : Mr. Shinde Ganesh P.
Advocate for Respondents : Mr. Kale Gopal D. for R/1
...

**CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.
DATE : 21.08.2017**

P.C. :-

. The respondent had filed the petition under Section 18 of the Hindu Adoption and Maintenance Act, the same is partly allowed. The Family Court granted maintenance of Rupees Five Thousand per month to the present respondent no.1, as against the present appellant.

2. Mr. Shinde, the learned counsel for the appellant submits that the cruelty as alleged by the present respondent no.1 is not proved. On the contrary a specific admission is given by the respondent no.1 in her evidence that the present appellant and his brothers, sisters never subjected the respondent no.1 to ill treatment. Even the father of the present respondent no.1 admitted in his evidence that the present respondent no.1 demanded sewing machine and for fulfillment of the

said demand the petition is filed. The learned counsel submits that this unequivocal admissions on record clearly, disproves the case of respondent no.1. These admissions are not at all considered in its correct perspective. In fact, it is not a case of cruelty at all on the part of the present appellant. The witnesses examined by the present appellant would also show that the appellant tried to reconcile and settle the dispute but to no avail. The respondent no.1 has filed a false case under Section 498-A, also Section 18(2) of the Hindu Adoption and Maintenance Act is not attracted. The evidence has not been appreciated in its proper perspective. Even the respondent no.1 could not prove the income of the present appellant. The maintenance amount of Rupees Five Thousand awarded is on the higher side, the appellant does labour work.

3. The learned counsel for the respondent no.1 supports the order.

4. It is trite that isolated statements cannot be relied as against the whole evidence on record. The whole evidence will have to be considered. The respondent no.1 and her father are rustic persons. The entire oral evidence will have to be considered and the Court would not be swayed by the isolated admission made. The said aspect has been

considered by the Family Court. The evidence on record has been appreciated. The respondent no.1 has stated in the evidence about how she was persistently harassed and assaulted by the present appellant. The practices she was required to adopt. Considering the totality of the evidence, the Family Court has passed the impugned order in a proper manner. The income of the appellant is within the exclusively knowledge of the appellant. The appellant admitted in his evidence that he owns and possesses eight acres of land, whereas, before the Court he came with a case that he does labour work. Considering the totality of the evidence, Rupees Five Thousand per month awarded to the present respondent no.1 is proper and reasonable. Appeal is dismissed. No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]