

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR (F) No. 275 of 2016

Date of Decision : November 21, 2017

Baljeet Petitioner

VERSUS

Bhateri Respondent

CORAM : HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Mani Ram Verma, Advocate
for the petitioner.

Mr. Surinder Gaur, Advocate
for the respondent.

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LISA GILL, J. (Oral)

The petitioner is aggrieved of the order dated 04.07.2016 passed by the learned District & Sessions Judge, Family Court, Rohtak whereby interim maintenance @ Rs.4500/- per month has been assessed to be paid to the respondent who is none other but the mother of the present petitioner. A sum of Rs.5500/- has also been assessed as litigation expenses.

Learned counsel for the petitioner vehemently argues that his mother, the respondent, was the owner of agricultural land which she has transferred in the name of her grand son i.e. son of Anand, another son (petitioner's brother) of the respondent who has since passed away.

There is civil litigation pending between the present petitioner as well as the son/grandsons of his brother (since deceased). The

petitioner's mother is living with the said persons who are misusing their influence over the old lady to initiate proceedings against the present petitioner. In this view of the matter the learned District Judge, Family Cour, Rohtak has grossly erred in assessing interim maintenance @ ₹4500/- especially when it has come on record that the respondent was the owner of agricultural land.

Learned counsel for the respondent, however, submits that the agricultural land being referred to in Annexure P2 was a share which came to the respondent at the death of her son Anand. In this view of the matter the respondent transferred the said agricultural land in favour of the grand son of Anand. She has taken this step keeping in view the fact that the property in question belonged to her son Anand who has admittedly died. At this point of time the respondent is being maintained by the widow and family of Anand. She requires the said amount of maintenance keeping in view her advanced age of over 75 years. Therefore, the impugned order be upheld.

I have gone through the record and heard learned counsel for the parties.

It is not in dispute that during the life time of the respondent's husband property had been transferred to the present petitioner as well as his brother Anand. The respondent at this point of time is being maintained by the family of Anand, her pre-deceased son. No serious dispute regarding the income of the petitioner has been raised before this Court. Much stress has been laid upon civil litigation which is now pending between the petitioner and the son/grandsons of his brother-Anand and the question of misuse of the factum of the presence/stay of the petitioner's old mother with

the family of his pre-deceased brother.

Be that as it may, I do not find any illegality, infirmity or perversity in the impugned order dated 04.07.2016 passed by the learned District & Sessions Judge, Family Court, Rohtak which calls for any interference in exercise of its revisional jurisdiction. A sum of ₹4500/- is assessed as interim maintenance to be paid to the respondent who is none other but the petitioner's mother. The fact that the respondent is being maintained by the family of the pre-deceased brother cannot absolve the petitioner from his duty to maintain his mother. The transfer of the land in question as reflected in Annexure P-2 is of no avail to the petitioner as it was admittedly the land which came to her share on the death of her son Anand. *Prima facie* the contention that her presence with the family of the pre-deceased brother is being misused to perpetuate litigation does not appear to be acceptable as during the course of arguments before this Court it has been contended on behalf of the petitioner that the respondent is hale and hearty, enjoying excellent health. Needless to say the matter is yet to be finally decided by the learned trial Court after due appreciation of evidence led before it. The assessed amount can always be adjusted at the time of final hearing. No ground is made out for any interference by this Court at this stage.

Learned counsel for the parties agree that as the matter has been hanging fire since 2015, the learned trial Court be directed to decide the same in a time bound manner.

Accordingly, this petition is dismissed with a direction to the learned trial Court to decide the matter expeditiously, preferably within six months from the date of receipt of certified copy of this order.

It is clarified that none of the observations made here-in-above shall be construed to be a reflection on merits of the case and shall have no bearing on trial.

21.11.2017
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(LISA GILL)
JUDGE

Note: Whether speaking/reasoned:
Whether Reportable:

Yes / No
Yes / No