

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1129 OF 2018

Sureshchandra Bhavanrao Shirodkar ... Petitioner
Vs.
Gayatri Vidhyanand Shirodkar ... Respondent

Mr. V. B. Rajure for Petitioner.

CORAM : R. G. KETKAR, J.
DATE : APRIL 11, 2018

P.C. :

Not on Board. At the request of Mr. Rajure, learned Counsel for the petitioner, taken up for admission.

2. By this Petition under Article 227 of the Constitution of India, petitioner, who is the father in law of the respondent, has challenged the judgment and order dated 28.09.2017 passed by the learned Principal Judge, Family Court No.1, Pune below exhibit-10 in Darkhast No.137 of 2016. By that order, the learned Principal Judge overruled the objections raised by the petitioner in execution proceedings.

3. In support of this Petition, Mr. Rajure relied upon Section 20(2) of the Hindu Adoptions and Maintenance Act, 1956 (for short 'Act'), which lays down that a legitimate or illegitimate child may claim maintenance from his or her father or mother so long as the child is a minor. Section 3(c) defines the expression 'minor' to mean a person who has not completed his or her age of 18 years. He submitted that proceedings being Petition No.C-48 of 2011 were initiated under the provisions of the Act.

4. Mr. Rajure submitted that son Shriniwas was born on 14.08.1996

and son Pranav was born on 02.10.1997. Both the sons have attained majority. In view thereof, the learned Principal Judge was not justified in overruling the objection about payment of maintenance to major sons. He reiterated the objections raised about spending huge amount for medical treatment of his son Vidyanand @ Nilesh and that he had to take loan. Now, petitioner has no capacity to pay the amount. The learned Principal Judge noted that Vidyanand died on 07.05.2006 and Purshis was filed on 12.10.2012. Despite incurring expenses towards medical treatment of Vidyanand, petitioner agreed to pay maintenance amount to respondent and her two sons. The Principal Judge, therefore, overruled that objection.

5. Mr. Rajure submitted that respondent has her own source of income and irrigated land in her name. The learned Principal Judge overruled that objection on the ground that no documentary evidence supporting the said objection as also both the sons are earning was produced. Lastly, Mr. Rajure submitted that petitioner has no source of income. The learned Principal Judge overruled that objection on the ground that petitioner was aware about his properties and about his source of income and he willingly agreed to pay maintenance of Rs.20,000/- per month.

6. I have considered the submissions advanced by Mr. Rajure. I have also perused the material on record. Section 20(2) reads thus,

“20. Maintenance of children and aged parents.- (1) ...

(2) A legitimate or illegitimate child may claim maintenance from his or her father or mother so long as the child is a minor.”

7. A perusal of the above provision shows that a legitimate or illegitimate child **can claim** maintenance from his or her father or

mother so long as the child is a minor. In the present case, the grandsons of the petitioner have claimed maintenance when proceedings were instituted in the year 2011. Petitioner and the respondent in Petition C-48 of 2011 filed joint Purshis. Clause 1 thereof is to the following effect:

“1. It has been decided that, respondent will deposit Rs.20,000/- p.m. from January 2012 in the Petitioner's account No.1882101022100 in Canara Bank, Pune for maintenance of petitioner and her two sons on or before 10th of every month.”

8. A perusal of the above clause shows that it was decided between the parties that respondent therein (petitioner herein) had agreed to deposit Rs.20,000/- per month from January 2012 in respondent No.1's Account for her and her two sons maintenance on or before 10th of every month. Clause 1 did not provide for payment of maintenance to two sons on their attaining majority. The learned Principal Judge has considered this aspect in paragraph 4. The learned Principal Judge observed that petitioner voluntarily agreed to pay maintenance for both the sons. For the reasons recorded in paragraph 4, I do not find that the learned Principal Judge has committed any error in that regard. In so far as the other objections are concerned, the same were dealt with in paragraphs 6 and 7 of the impugned order. For the reasons recorded therein, I do not find that the learned trial Judge has committed any error. Hence, Petition fails and the same is dismissed.

(R. G. KETKAR, J.)