

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.1405 OF 2018

ORDER:

This Criminal Revision Case is filed questioning the orders passed in M.C.No.17 of 2017 dated 27.11.2017 on the file of the Court of the Judge, Family Court-cum-VIII Additional Sessions Judge, Mahabubnagar, directing the petitioner to pay a sum of Rs.3,000/- per month towards maintenance to the second respondent herein.

Heard the learned counsel for the petitioner as well as the learned counsel appearing for the second respondent.

The facts, in brief, are that the second respondent herein filed M.C.No.17 of 2017 against his sons i.e. the petitioner herein and respondent Nos.3 to 6 on the file of the Court of the Judge, Family Court-cum-VIII Additional Sessions Judge, Mahabubnagar claiming a sum of Rs.25,000/- per month at the rate of Rs.5,000/- each. It is the case of the second respondent that he is the father of respondents 3 to 6 and the petitioner herein. The second respondent brought up the respondents 3 to 6 and the petitioner and performed their marriages except the petitioner herein since he did not show any interest. The second respondent used to do cooli work and for the last three years he is not doing any work due to old age and age related health problems. Therefore, he is unable to maintain himself. His wife is also bed-ridden. Therefore, he filed the said M.C. claiming maintenance from his sons.

The petitioner herein filed a counter in the M.C. stating that he is the son of the second respondent through his first wife. In

fact, the second respondent has driven out him and his mother more than five years back and neglected them. The second respondent is having more than Ac.15.00 gts. of land and mango garden near Tatikonda village. The second respondent is a wholesale mason and used to undertake construction work. The second respondent suppressed the properties and income on the properties as well as the income from masonry work.

After full-fledged trial, the learned Family Judge allowed the said M.C. in part by orders dated 27.11.2017 awarding a sum of Rs.3,000/- per month to the second respondent towards maintenance while dismissing the claim against the respondents 3 to 6 herein.

The learned counsel appearing for the petitioner would contend that the second respondent has neglected the petitioner and his mother five years prior to filing of the maintenance case and they were driven out of the house. In spite of possessing agricultural lands and income on the masonry work, the second respondent failed to maintain them and on the other hand, with false allegations and suppressing the relevant facts, he filed the M.C. That apart, though the maintenance is asked against all the sons i.e. the petitioner and respondents 3 to 6, the Court below committed an error in awarding maintenance only against the petitioner.

Per contra, the learned counsel appearing for the second respondent contended that at present, the second respondent is aged about 88 years and is bed-ridden and is not being looked after by any of the sons. He also brought to the notice of this

Court that the second respondent, in the year, 1995 itself, under a family settlement deed dated 01.07.1995, gave a landed property to an extent of Ac.3.00 guntas apart from a residential house to the petitioner herein and his mother. However, in the year 2009, the petitioner has sold away the said house property. In the family settlement deed, it is specifically mentioned that the petitioner has to maintain his mother during her lifetime. The counsel for the petitioner while making submissions brought to the notice of this Court by showing the copies of the pahanies that the second respondent is having vast agricultural lands. However, none of these facts have been brought on record before the Court below and while awarding the maintenance, these facts have not been considered. On the other hand, the mother of the petitioner herein filed M.C.No.1 of 2016 against the second respondent herein resulting in award of a sum of Rs.5,000/- per month towards maintenance against him. In fact, both the maintenance cases are interrelated since the parties are one and the same. However, these two maintenance cases are tried separately and separate orders have been passed.

Be that as it may, since the arguments advanced before this Court are not considered by the Court below and the relevant documents are also not filed, this Court deems it appropriate to remand the matter to the lower Court to appreciate the matter in proper perspective after considering all the facts and documents.

Accordingly, the Criminal Revision Case is allowed setting aside the orders passed in M.C.No.17 of 2017, dated 27.11.2017 and the matter is remanded back to the Judge, Family Court-cum-VIII Additional Sessions Judge, Mahabubnagar for fresh disposal.

At this stage, both the counsel requested this Court to direct the learned Family Judge to club both the maintenance cases and pass comprehensive orders. Acceding to the said request made by both the counsel, the learned Judge is directed to club M.C.No.1 of 2016 and M.C.No.17 of 2017 and pass appropriate orders in accordance with law.

Pending miscellaneous petitions, if any, shall stand closed.

P.KESHAVA RAO,J

03rd AUGUST 2018.
Tsr

