

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

**CRR(F)-93-2013 (O&M)
Date of Decision: 12.03.2018**

Khazani Devi

....Petitioner

Versus

Bal Kishan

...Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Amninder Preet, Advocate
Amicus Curiae for the petitioner.

ANITA CHAUDHRY, J.

In this petition petitioner-wife is seeking enhancement of the maintenance amount and modification of the order dated 01.05.2013.

Notice had been given to the respondent. No one appeared on his behalf.

There was no appearance on behalf of the petitioner and an amicus curiae was appointed.

Records have been received.

Khazani Devi had filed a petition under Section 125 Cr.P.C. seeking maintenance. The petition was filed in 2006 and was decided in January, 2010. The Court allowed Rs.700/- per month as maintenance. Khazani Devi filed another petition under Section 127 Cr.p.C. in April, 2012 seeking enhancement pleading that the income of the respondent had increased as he had a Junk Shop and had income of Rs.60,000/- per month, he owned a jeep and had also kept workers at his shop. It was pleaded that she had no source of income.

The respondent filed reply and pleaded that the petition had

been filed just to cause harassment and to get the Will changed. It was pleaded that the respondent had purchased a plot and had constructed a Godown but since they required money for the marriage of their daughter Ravina, therefore the property was mortgaged and the respondent had taken Rs.3 lacs as loan and had handed it over to the petitioner and the petitioner deposited that amount in her account in the Post Office and later got the daughter married in Court. The respondent asked for the return of that amount but the petitioner refused to return the money. It was pleaded that the respondent had executed a Will bequeathing his property in favour of the adopted son Krishan and the petitioner started filing complaints against him which were found to be false and the present petition was also filed in order to pressurize him. It was pleaded that the petitioner was living with her son who was major and the adopted son was living with him and the daughter was married. It was pleaded that the petitioner was earning Rs.5000/- per month as she was working in Bright Star Public School situated at Rohtak Road, Bhiwani.

Both the sides led their evidence. The Family Court, Bhiwani considering the pleadings and the evidence noted that the husband had pleaded that he was unable to earn as he was suffering from some disease. It was also noted that he had not taken treatment after 2009 and had tried to conceal his earnings. It noted that the respondent had admitted in the cross-examination that the pick-up dala had been sold to his brother but the registration was still in his name. The Family Court increased the maintenance from Rs.700/- to Rs.1400/- per month.

I have heard amicus curiae at great length and with his assistance have gone through the record.

The husband had pleaded that he was suffering from throat cancer. The Family Court had noted that the husband had been attending the OPD in PGI, Rohtak but noted that there was no further prescription to show that the treatment was still continuing. However, the OPD record shows that there was some growth and biopsy had been recommended and the husband had been visiting Rajiv Gandhi Cancer Institute in Delhi.

The husband has also produced some photographs as he was unable to get any other material to show that his wife was working in Bright Star Public School. The petitioner did not say a word about it in her affidavit. The petitioner had admitted that she was living in her son's house who was 22 years old. She denied that the house had been constructed by the husband and that the Will was registered in the name of the son. The petitioner had admitted the photographs Ex.R-1 to R-5 but she denied that they related to Bright Star Public School. She had stated that she had a grandson and she used to pick up him from School. It was very easy for the petitioner to lead evidence to show that her grandson was studying in Bright Star Public School and that she was not working there. It appears that true facts have been kept away from the Court. There is no evidence with respect to the income of the husband. Both the petitioner and the respondent are over 57 years of age.

In the light of the evidence which was produced by the parties, There is no scope for further enhancement.

The petition is dismissed.

March 12, 2018

**(ANITA CHAUDHRY)
JUDGE**

ps-I

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No