

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

FAO NO.5504 of 2017 (O&M)

Date of Decision:15.11.2018

Rattan Singh Rathee

. Appellant

Vs.

Kavita and others

. Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL**

Present: - Mr.K.C. Rajput, Advocate,
for the appellant.

Mr.Sushil Jain, Advocate,
for the respondents.

RAKESH KUMAR JAIN, J.

The appellant has challenged the judgment and decree dated 17.5.2017 passed by the Family Court, Sonipat whereby the petition filed under Section 19 of the Hindu Adoptions and Maintenance Act, 1956 [for short 'the Act'] by the widowed daughter-in-law along with her two minor daughters against the father-in-law (appellant herein) has been allowed and ₹600/- per month is awarded to each of them towards maintenance.

In brief, the marriage of respondent No.1 was solemnized with Parveen son of the appellant as per the Hindu rites and ceremonies about 17 years ago. They were blessed with two children but the husband of respondent No.1 died due to prolonged illness. Respondent No.1 was allegedly shown the door by the appellant after the death of her husband and she has been living at her parental home. The respondents have filed petition under Section 19 of the Act for seeking maintenance @ ₹10,000/- per month from the appellant (father-in-law) of respondent No.1 and

grand-father of respondents No.2 and 3. It is, *inter alia*, alleged that the appellant herein was retired from the FCI. He has sold agricultural land and purchased a residential house and a plot of 200 sq. yards in his name and is getting pension of ₹20,000/- per month whereas respondent No.1 is unemployed having no independent source of income and has to look after herself and her two minor daughters.

On the other hand, the case set up by the appellant in his pleadings is that he is 73 years of age. He has no agricultural or ancestral land in his name. He has constructed the house after taking loan from the FCI. He has four unmarried daughters dependent upon him and that he is not getting any pension.

On the pleadings of the parties, two issues were framed by the trial Court.

Both the parties led their oral as well as documentary evidence but the appellant did not enter the witness box for the reasons best known to him and as such the learned trial Court has taken as adverse inference against him because the evidence led by the respondents remained un rebutted.

Keeping in view the said facts and circumstances, the learned Court below found it to be a fit case for awarding maintenance @ ₹600/- per month to each of the respondents herein from the date of filing of the petition i.e. 9.7.2014.

Aggrieved against the decision of the learned trial Court dated 17.5.2017, the present appeal has been preferred.

Learned counsel for the appellant has submitted that the appellant is an old man and is not getting pension of ₹20,000/- per month as stated by the respondents. It is also submitted that the agricultural land was

sold and the land was purchased on which the house was built by the appellant after obtaining loan from the FCI. It is further submitted that the appellant himself is dependent upon his other son.

On the other hand, learned counsel for the respondents has submitted that the appellant has deliberately did not choose to appear in the witness box being afraid of his cross-examination otherwise the appellant has sufficient means to pay the amount of ₹600/- per month as maintenance to each of the respondents which comprises of his widowed daughter-in-law and two unmarried grand-daughters.

We have heard learned counsel for the parties and after examining the record, are of the opinion that there is no merit in this appeal because the appellant, though having the opportunity to support the pleadings in his reply by appearing in Court as a witness, has chosen to stay away from the witness box for the reasons best known to him. The learned trial Court has rightly drew an adverse inference in this regard and has awarded a very meager amount of ₹600/- per month towards maintenance to each of the respondents which does not call for any interference by us in this appeal. Hence, the present appeal is hereby dismissed being denuded of any merit. No costs.

(RAKESH KUMAR JAIN)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

15.11.2018

Vivek

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*