

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 83 of 2019

Aarti Sahu, D/o Girish Sahu, Aged About 25 Years, R/o Village Tendua,
Thana and Tahsil Saja, District : Bemetara, Chhattisgarh

---- Applicant

Versus

Girish Sahu, S/o Tararam Sahu, Aged About 45 Years, R/o Village Tendua,
Thana And Tahsil -Saja, District : Bemetara, Chhattisgarh

---- Respondent

For Applicant	:	Shri Samir Singh, Adv.
For Respondent	:	Shri C.P. Lahrey, Adv.

Hon'ble Smt. Justice Rajani Dubey

Order on Board

07/08/2019

The present revision has been filed by the applicant against the order dated 05.12.2018, passed by the learned Family Court, Bemetara, in Cr. M.J.C. No.01/2018, whereby the learned trial Court has rejected the application filed under Section 125 of the Cr. P.C. by the applicant for grant of maintenance.

2. Before trial Court, the applicant(daughter) has filed an application under Section 125 of the Cr.P.C. on this ground that on 15.08.1992, she born to the estranged couple of Ramhin Bai, the first wife of respondent and in all her school certificates, voter ID and identity certificates name of the respondent-Girish Kumar Sahu is written as father of the applicant. When applicant was only one month old, the respondent has thrown out her mother out of his house. Now, the applicant is aged about 25 years old and she wants to marry a

suitable boy, as she is unable to maintain herself and her economic condition is very bad, therefore, she is claiming Rs.10,000/- p.m. as maintenance and Rs.2,00,000/- as marriage expenses from respondent(father).

3. The respondent (father) in his reply denied all the allegations made against him. It was pleaded by him that the applicant is not his daughter and mother of the applicant intentionally wrote his name as father of the applicant in her school records, voter ID and identity certificates. For this, the respondent has filed a civil suit, in which the learned Court has passed decree in his favour. He further pleaded that the applicants father name is Dongru Yadav. In the year 1991, when respondent (applicant herein) was in 5th standard, at that time the applicant's mother levelled false allegations against the respondent(father), upon which a village panchayat was convened and in front of all the villagers, the mother of applicant uttered name of Dongru Yadav as father of the applicant. The respondent is neither husband of the applicant's mother nor she is his daughter. The applicant along with her mother is residing in the house of Dongru Yadav, therefore, she is not entitled to get any maintenance from him.

4. Before the Family Court, the Applicant(daughter) examined herself as (AW-1), her mother-Ramhin Bai (AW-2) and one Deval Singh (AW-3). The respondent (father) examined himself as (NAW-1) and Rameshwar Singh(NAW-2).

5. After recording the evidence and hearing their submissions, learned Family Court, vide order dated 05.12.2018, dismissed the application of the applicant, on the ground that the applicant is not daughter of the respondent, therefore, she is not entitled to get any maintenance from him. Hence, this revision.

6. Learned counsel appearing for the applicant submits that the impugned order dated 05.12.2018 is bad illegal and perverse and contrary to law. He further submits that in all the documents the name of respondent is there which itself is sufficient to establish the fact that the applicant is legal daughter of respondent and is liable to get maintenance from him. The name of the respondent is written as father of the applicant. The learned trial Court has failed to appreciate the evidence available on record and committed gross error in holding that the applicant is not entitled to received the amount of maintenance, as she is the daughter of first wife of the respondent.

7. On the other hand, learned counsel for the respondent supported the impugned judgment.

8. I have heard the Learned Counsel for the applicant and perused the record.

9. In the case in hand, to substantiate the plea, the applicant has filed some documents which are exhibited from P-1 to P-7, and in all her documents, respondent name was written in place of applicants father. The respondent has filed copy of judgment and decree dated 30.06.2008, which was passed in favor of the respondent by First Civil Judge, Class-II, holding that the applicant - Arti Yadav is not a daughter of plaintiff Girish Kumar Sahu and Defendant-Ramhin Bai is not a legally married wife of Girish Kumar Sahu. Learned Family Court has finally decided that the applicant is not daughter of the respondent. The Family Court arrived at this finding, which is based on judgment & decree dated 30.06.2008, passed by Court below.

10. The applicant did not file any appeal or revision against the judgment and decree. The trial Courts finding is based on judgment of

decree of the Civil Judge, Class-II, therefore, in these circumstances, the order of learned trial Court does not suffer from any patent illegality, perversity so as to warrant interference by this Court, keeping in view limited scope of interference against the judgment of rejection of maintenance to the applicant.

11. I find no merit in the instant revision. It is therefore, dismissed.

Sd/-
(Rajani Dubey)
Judge

yasmin