

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
FAM No. 237 of 2018

- Balmukund Yadav S/o Itwari Ram Yadav Aged About 44 Years R/o Niyogi Nagar, Ward No. 15, Near Annapurna Mandir, Dallirajhara, Tahsil Dallirajhara, District- Balod, Chhattisgarh.

---- **Petitioner**

Versus

- Ku. Arti Yadav D/o Balmukund Yadav Aged About 19 Years R/o Village Chikhali, Post Chikhali, Police Chowki Jevara Sirsa, Tahsil and District- Durg, Chhattisgarh.

---- **Respondent**

For Appellant	: Shri Shikhar Sharma, Advocate
For Respondent	: Ms. Kasturi Sahu, Advocate

D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

Per Manindra Mohan Shrivastava, J.

22/07/2019

Heard.

2. This appeal is directed against the order dated 20 July, 2018 passed by the learned Family Court, whereby the Family Court has awarded Rs. 3,000/- per month maintenance to respondent/Daughter and has also directed the appellant to deposit Rs. 3,00,000/- as security towards expenditure likely to be incurred for her higher education and marriage.

3. Learned counsel for the appellant would argue that the learned Family court has passed the order imposing financial liabilities which the appellant is unable to bear looking to his meager income and small extent of landed property in his hand. He would further argue that by order dated 08.10.2014, the Family court awarded monthly maintenance Rs. 1500/- to the wife and Rs. 1000/- to the daughter

respondent (Aarti). Subsequently by the order impugned in this appeal, the monthly maintenance amount payable to the daughter has been increased to Rs. 3,000/- per month, directing the appellant to deposit amount of security is much more than the proved financial capacity of the appellant.

4. On the other hand, learned counsel for the respondent would submit that the learned Family court after taking into consideration the means of earning and the property in the hands of the appellant has passed the order. It is argued that the appellant has no other liabilities except to maintain his wife and the daughter (respondent herein). It is argued that the respondent/daughter is at present aged about 24 years and she requires financial assistance from the side of her father to complete her education of nursing course and would also be needing money for arranging her marriage.

5. We have heard learned counsel for the parties and perused the records, pleadings as well as the evidence. It can not be disputed that the appellant has no other liabilities except to maintain his wife and the daughter (respondent). It is also not in dispute that the respondent/daughter is presently pursuing a nursing course. Looking to her age at this stage and also the fact that her marriage is also likely to be solemnized in near future, that the appellant has been found to be possessed of cow and buffalo, four in number, and is engaged in selling milk, it can safely be presumed that he must be in this occupation at least since last couple of decades and he is also found to be possessed of agricultural land. There is some dispute with regard to total extent of land which the appellant is said to have been possessed of.

6. Taking into consideration the aforesaid material on record, in our opinion as far as amount of maintenance of Rs. 3000/- per month as has been awarded by the learned Family Court to respondent is concerned, it does not warrant any interference in this appeal. However, in so far as the direction for payment security of Rs. 3,00,000/- is concerned, we find that the learned Family Court was inclined to pass such an order taking into consideration not only the earning capacity but also the land in possession of the appellant upon perused of relevant documents with regard to the agriculture land owned by the appellant, we consider it appropriate to ease appellant's financial liability of arranging security of Rs. 3,00,000/-. In our opinion it would be proper to modify the order passed by the learned Family Court in the manner that the appellant will be required to arrange security to the extend of 1,50,000/- within three months. The remaining security of Rs. 1,50,000/- will have to be submitted before 13th of August, 2020.

7. The appeal is accordingly partly allowed and the order passed by the Family Court is modified as directed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge