

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

F.C.A.NO.280 OF 2018

Dated: 18.03.2019

Between:

Shri Amirchetty Devender.

...APPELLANT

And

Kum. A. Srita Jansree, D/o. Amirchetty Devender,
Aged 13 yrs, Occ: Student, being minor rep.by
Her natural mother and guardian Smt. P. Katyayini.

...RESPONDENT

Counsel for the Appellant:

Mr. Bommagoni Prabhakar

Counsel for the Respondent:

Mr. P.Ramachandran

The Court made the following:

THE HONOURABLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

F.C.A.NO.280 OF 2018

JUDGMENT: {Per the Hon'ble Sri Justice Raghvendra Singh Chauhan}

The appellant, Shri Amirchetty Devender, has challenged the legality of the order dated 10.02.2018, whereby the learned Family Court had directed the appellant-respondent to pay monthly maintenance of Rs.30,000/- to his minor daughter, who is represented by her mother, the natural guardian, from the date of the petition i.e. 06.02.2014 and to pay the costs of litigation.

Briefly, the facts of the case are that Kum. A. Srita Janasree, the minor daughter, had filed a petition under Section 26 and Order VII Rule 1 of the Code of Civil Procedure, and Section 7 of the Family Courts Act praying that her father, the appellant, should be directed to pay the arrears of maintenance to the tune of Rs.10,08,000/- from 01.12.2010 till November, 2013 at the rate of Rs.30,000/- per month, and to grant Rs.30,000/- per month towards maintenance from the date of petition i.e. 06.02.2014. The said petition was filed by the natural mother, Ms. P.Katyayani on behalf of the minor daughter.

According to the petitioner, she was born on 27.05.2005 during the wedlock of her parents. However, as differences arose between her parents, her mother left the appellant in June, 2011. Since then, the minor daughter is staying with her mother. Furthermore, despite the fact that the appellant-father had promised to transfer certain property in favour of the mother on 12.10.2003, despite the fact that he had given an undertaking on

16.08.2010 before XIII Additional Chief Metropolitan Magistrate's Court, Hyderabad in C.C.No.411 of 2006 that he will not transfer the properties without the consent of the petitioner's mother, he has not complied with the said undertaking. Moreover, the petitioner pleaded that the appellant-father is trying to alienate certain immovable properties. Despite the fact that the petitioner is studying III Class at Gitanjali School, Begumpet, Hyderabad, in spite of the fact that she requires her fees to be paid and the amount to be paid for her accommodation and medical expenses, according to the petitioner-daughter, her father was not maintaining her. Hence, the petition filed by her.

In order to buttress her case, the petitioner-daughter examined her mother, Smt. P. Katyayani, as a witness, and submitted eight documents.

On the other hand, the appellant examined himself as a witness, but did not submit any documents. After going through the evidence led by both the parties, the learned Trial Court granted the maintenance as mentioned hereinabove. Hence, this appeal before this Court.

Mr. Prabhakar Bommagani, the learned counsel for the appellant, has pleaded that the appellant happens to be a young lawyer who has just commenced his practice in the Courts. Therefore, his income is not to the extent that he can afford to pay Rs.30,000/- per month for the maintenance of his daughter. Even while trying to implement the order dated 27.09.2018 passed by this Court whereby, he was directed to deposit the arrears of the maintenance, he had to borrow money from his relatives and friends. Therefore, it is almost impossible for him to pay

maintenance amount at Rs.30,000/- per month for the benefit of the petitioner-daughter.

On the other hand, Mr. P. Ramachandran, the learned counsel for the respondent has pleaded that the appellant was in the business of real estate. The learned Family Court has clearly noticed that despite his undertaking given to the Court, the appellant had sold of certain immovable properties. The Family Court has also noticed the fact that as to what became of the amount earned from the sale of the immovable properties, the appellant has hidden the fact from the learned Family Court. Moreover, the appellant has large number of plots within the city of Hyderabad which are still available with him which he can sell. Furthermore, the appellant has not produced any evidence to show what his present financial status is. Considering the fact that he resiled from the undertaking given before the Court, considering the fact that he had properties in his name, the learned counsel for the respondent submits that the appellant's submission should not be believed by this Court in the absence of cogent evidence. Therefore, the learned counsel has supported the impugned order.

Heard the learned counsel for the parties and perused the impugned order.

A bare perusal of the impugned order clearly reveals that the appellant had admitted in his cross-examination that he had given certain undertakings before the learned Civil Court that he will not alienate certain properties without the consent of his wife. However, he has further admitted that despite giving such an undertaking, he has, indeed, sold the properties without seeking

the consent of his wife. Thus, he had resiled from his solemn undertaking.

The learned Family Court has also noticed that the appellant has sold of an open land admeasuring 859 square yards in Peerjadiguda at Shameerpet, and also a house at Swaroopnagar, Uppal, admeasuring 103 square yards, and land of 1009.9 square yards at Shameerpet Mandal, R.R.District. The appellant did not inform the Family Court as to what happened to the amount earned by him from the sale of these properties.

The Family Court has also noticed the fact that the appellant continues to own an open land, in Plot No.84 admeasuring 333 square yards in Survey Nos.6 to 12 situated at Bibi Saheb Maqta Village, Peerzadiguda, Ghatkesar Mandal, R.R. District, and open Plot Nos.39 and 53, admeasuring 548.88 square yards in Survey Nos.5, 6, 7, 10, 10/1, 11/1, 12/1, 12/42 and 13/2, situated at Radhakrishnapuram, Ammuguda, Kapra Municipality, Malkajgiri Mandal, R.R. District. According to the learned Family Court, the properties of the appellant could not be sold by him, as there was *status quo* order passed by the Court. But even the said properties continue to be with the appellant.

Despite the fact that the learned counsel for the appellant submits that the appellant is a young lawyer, who has recently entered the legal profession, he has neither submitted his registration with the Bar Council, nor submitted any evidence to show his present financial status. Hence, considering the past conduct of the appellant, the submission being made by the learned counsel for the appellant cannot be accepted as the gospel truth. Most importantly, it is duty of the father to maintain his

daughter. Presently, the girl is aged about 13 years and she is studying in the VIII class at Githanjali School, Begumpet, Hyderabad. The maintenance, education, accommodation, and the duty to bring up the child is not the sole responsibility of the mother, but is equally the responsibility of the appellant. Considering the fact that being a lawyer, there is certain standard of living to be maintained by the daughter as well, considering the fact the high prices of the commodities today, the maintenance of Rs.30,000/- per month is a reasonable amount to be paid by the appellant for the maintenance of the respondent-daughter.

For the reasons stated above, this Court does not find any illegality in the impugned order. Hence, the appeal is devoid of merit; it is, hereby, dismissed.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand dismissed.

(RAGHVENDRA SINGH CHAUHAN, J)

(T.AMARNATH GOUD, J)

18th March 2019
RRB