

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FA(MAT) No. 52 of 2019**

1. Anjita Varam D/o Karma Prasad Aged About 28 Years R/o Village Dhurkot By Caste - Satnami, Police Station And Tehsil Dabhra, District Janjgir Champa, Chhattisgarh
2. Jyoti Varam D/o Karma Prasad Aged About 25 Years R/o Village Dhurkot By Caste - Satnami, Police Station And Tehsil Dabhra, District Janjgir Champa, Chhattisgarh

---- Appellants**Versus**

- Karma Prasad S/o Bishambar Varam Aged About 56 Years Caste Satnami, Occupation Government Job (Hostel Superintendent) Kotni, Resident Of Dhurkot Police Station And Tehsil Dabhra, District Janjgir Champa Chhattisgarh

--- Respondent

For Appellant/s	:	Mr. Sumit Singh, Advocate.
For Respondent	:	Mr. Ishwar Jaiswal, Advocate.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order On Board****07/01/2020**

1. Heard on application for condonation of delay in filing the appeal.
2. Upon due consideration, the application is allowed and delay is condoned.
3. With the consent of learned counsel appearing for the parties, this appeal is heard finally.
4. This appeal arises out of order dated 08.08.2019 passed by the learned Family Court by which the appellants applications for grant of maintenance has been rejected.
5. Appellants are daughters of respondent Karma Prasad and they moved application under Section 20(3) of the Hindu Adoptions and Maintenance Act,

1956 for grant of monthly maintenance of Rs.10,000/- for each of them and also expenses towards their marriage.

It is an admitted position between the parties that appellant No.1-Anjita Varam is now married and appellant No.2-Jyoti Varam, younger daughter, is still unmarried.

6. The appellants moved application for grant of maintenance on the pleadings that the respondent-father is earning from his government job and getting Rs.65,000/- per month and is also earning from agriculture activities.
7. Respondent in his reply denied that he was earning Rs.65,000/- or any agriculture income. According to him, he has made arrangements not only for residence but all daily needs of the appellants as well as their mother and the differently abled brother, who have already been awarded maintenance of Rs.10,000/- each under separate proceedings.
8. Taking into consideration that the respondent had provided residence for appellants and has also undertaken to bear expenses likely to be incurred for the marriage of younger unmarried daughter Jyoti Varam and taking into consideration that the elder daughter Anjita Varam has now been married and thus no longer entitled to maintenance, the application has been rejected.
9. Learned counsel for the appellants argues that even if for the reason that elder daughter Anjita Varam is now married and so, not granted maintenance, younger daughter is a student who is studying in the college, and therefore, respondent-father is under statutory obligation to provide maintenance for necessary expenses. He would argue that the respondent-father in his evidence has admitted that he is earning Rs.60,000/- per month and also getting agricultural income of Rs.25,000-30,000/- per year. In the absence of there being any evidence that appellant No.2-Jyoti Varam is earning and maintaining herself through any employment/vocation, the learned trial Court ought to have awarded a reasonable sum towards maintenance of appellant No.2-Jyoti Varam.
10. On the other hand, learned counsel for the respondent would submit that the father has been duly discharging his obligation to maintain his daughters. He

would submit that the respondent has been maintaining first wife, her children as also the second wife and issues born out of second marriage. He would further submit that in a separate proceedings, an order has been passed directing him to pay Rs.10,000/- to the mother of the appellants and Rs.10,000/- to differently abled brother of the appellants. It is an admitted position that the respondent has provided a huge residence for the appellants, their mother and differently abled brother and enough money has already been given to the mother so that she may maintain herself and the daughter also. Learned counsel for the respondent further submits that the respondent has also undertaken and stated that he would be bearing the entire expenses of marriage of younger daughter Jyoti Varam. Therefore, in these circumstances, learned Court below has not committed any illegality in not granting maintenance to the appellants.

11. We have heard learned counsel for the parties and gone through the records.
12. Appellant No.1-Anjita Varam has since been married is not in dispute. In that view of the matter, the order of the learned Court below, rejecting application for maintenance of Anjita Varam does not warrant interference.
13. However, as far as younger unmarried daughter Jyoti Varam is concerned. We find that the respondent-father has admitted in his evidence that he is getting Rs.60,000/- as salary, per month and also earning about Rs.25,000-30,000/- agriculture income per year. There is no evidence led by respondent or by any other party to prove that younger daughter Jyoti Varam is presently earning from any vocation/employment or any profession. She is a student. Therefore, taking into consideration this aspect of the matter, financial capacity of the respondent, present day need of a growing daughter and also taking into consideration the other liabilities which the respondent-father is discharging towards first wife, differently abled son and second wife and issues, in our opinion, it would be proper that monthly maintenance of Rs.5,000/- is awarded to the appellant No.2-Jyoti Varam.
14. Accordingly, the appeal of appellant No.1-Anjita Varam is dismissed and the appeal of appellant No.2-Jyoti Varam is partly allowed to the extent that respondent-father shall pay Rs.5,000/- per month to his younger daughter Jyoti Varam. This would be an addition to marriage expenses which is payable

by the respondent according to undertaking given the respondent for appellant No.2-Jyoti Varam. Further, we make it clear that we have not awarded the entire amount as claimed by the appellant No.2-Jyoti Varam. Her claim has been partly allowed, taking into consideration the undertaking of respondent-father that the expenses of marriage of appellant No.2-Jyoti Varam would also be borne by him as and when occasion arises.

15. In the result, the appeal is partly allowed. The maintenance amount, however, shall be payable to appellant No.2-Jyoti Varam only as long as she is not married. After her marriage, the obligation on the part of the respondent to pay monthly maintenance to appellant No.2-Jyoti Varam shall come to an automatic end.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge