

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

**CR-244-2021 (O&M)
Date of Decision: 11.02.2021**

Bhadar

...Petitioner

Vs.

Sunita and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Ashok Kumar Verma, Advocate,
for the petitioner.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Petitioner, inter alia, seeks quashing of impugned order dated 15.10.2019 (Annexure P-5) passed by learned Principal Judge, Family Court, Sirsa, vide which his daughter in law, a widow, and his three grand children have been awarded an interim maintenance of Rs.4,000/- per month.

2. Son of the petitioner expired on 03.08.2015. Thereafter, respondents filed a petition under Sections 19, 21, 22 and 28 of the Hindu Adoptions and Maintenance Act, 1956 before the Family Court claiming maintenance to the tune of Rs.22,000/- per month from the petitioner. Respondents also filed an application under Order 39 Rule 1 and 2 read with Section 151 of the Code of Civil Procedure for grant of temporary injunction qua agricultural land measuring 47 kanals and 4 marlas.

3. Learned Family Court vide impugned order dated 15.10.2019 (Annexure P-5) granted status quathe property, apart from granting

impugned interim maintenance to the respondents from the date of filing of petition i.e. 03.04.2018.

4. Learned counsel for the petitioner submits that impugned order dated 15.10.2019 has been passed without going into the income of the petitioner. He submits that income of the petitioner is merely between Rs. 50,000-60,000/- per annum from his property and he has no other source of income. He can not thus pay Rs.48,000/- per annum to the respondents as interim maintenance. On the other hand, respondent No.1 is earning herself, as she is engaged in dairy farming. Apart from this, she is also earning from tailoring work and her monthly income is about Rs.30,000/- p.m. The impugned order, therefore, is liable to be set aside.

5. He also contends that respondents No.2 to 4, grand children, are also not entitled to claim any maintenance from the petitioner as the petitioner has not got or taken any share in the estate of his deceased son. The property in question is self acquired property of the petitioner. He further argues that it is settled position of law that if the main relief itself is untenable, no interim relief can then be granted in a petition.

6. I have heard learned counsel for the petitioner and gone through the case file.

7. Per averments in petition, the relationship between the parties is not disputed. It is also not in dispute that petitioner is owner of 47 kanals and 4 marals of land, though there is dispute regarding the nature of land, being self acquired or otherwise. Respondents are claiming it to be ancestral in nature while the petitioner is claiming that it is his self acquired property and respondents have no right therein. Considering the aspect that the nature of

the property is yet to be ascertained at the trial, the Court below has rightly ordered the parties to maintain status quo qua that.

8. Admittedly, respondent No.1 is the widowed daughter-in-law of petitioner and respondents No.2 to 4 are his minor grand children. There are allegations and counter-allegations by the parties qua the income part. It has yet to be established by adducing evidence by the parties as to what is the status of their income. Admittedly, petitioner is owner of 47 kanals and 04 marlas of land and in that view of the matter coupled with the fact that respondents presently have no income, the total interim maintenance of Rs.4,000/- per month for the four respondents, fixed by the Court below, though meagre but seems to be just and fair. It is the moral duty of the petitioner to save her widowed daughter-in-law and minor grand children from starvation.

9. In the circumstances, no fault could be found with the approach adopted by the Court below. No interference is warranted in exercise of revisional jurisdiction. Instant petition is dismissed.

February 11, 2021
Vandana/Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No