

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM NO. 117 OF 2019

Gandam Mamata

.....

Petitioner

Mr. Shashi Bhusan Jena, Advocate

-versus-

Gandam Damodar

....

Opp. Party

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

05.05.2022

Order No.

6. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this RPFAM seeks to assail the order dated 30th March, 2019 passed by learned Judge, Family Court, Rayagada in Cr.P. No.07 of 2019/M.C. No.41 of 2018, whereby he directed the Opposite Party to pay maintenance @ Rs.10,000/- per month to the Petitioner from the date of filing of the petition, i.e. from 3rd April, 2018.
3. Mr. Jena, learned counsel for the Petitioner submits that the Petitioner being a destitute lady having no source of income filed a petition under Section 125 Cr.P.C. for grant of Rs.20,000/- per month in her favour and Rs.10,000/- per month to her minor son towards maintenance. But, unfortunately the minor son of the Petitioner died during pendency of Cr.P. No. 7 of 2019. It is his submission that the marital status of the parties is not disputed. The Opposite Party has only dependant mother with him. He is working as Station Master in East Coast Railways and is earning more than Rs.70,000/- per month. On the other hand, the Petitioner is a destitute lady and has no independent source of income. Learned Judge, Family Court, Rayagada being swayed

away by the net income of the Opposite Party and erroneously holding that the Opposite Party has dependant mother and sisters, awarded a meager maintenance of Rs.10,000/- per month. In that view of the matter, the impugned order is liable to be set aside and the Opposite Party should be directed to pay a sum of Rs.20,000/- per month to the present Petitioner towards maintenance.

4. Although notice on the sole Opposite Party was sent time and again, but neither any one appeared nor Acknowledgement Due was returned.

5. Upon hearing learned counsel for the Petitioner and on perusal of the record, it appears that learned Judge, Family Court, Rayagada taking into consideration the salary of Opposite Party for the months of July, 2018, February, 2019, January, 2019 and December, 2018 came to hold that the Petitioner is entitled to a sum of Rs.10,000/- per month towards maintenance. Taking into consideration the evidence of P.W.1 (present Petitioner), learned Judge, Family Court, Rayagada came to hold that gross salary of Opposite Party for the month of July, 2018 to be Rs.71,434/- and after all deductions, the net pay was Rs.49,568/-. The pay slip of February, 2019 reveals that gross pay of the Opposite Party for the said month was Rs.63,768/- and the net income was Rs.25,389/- after all deductions. Likewise, the pay slip for the month of January, 2019 reveals that gross salary of Opposite Party was Rs.67,906/- and after all deductions, his net income was Rs.30,778/-. Again for the month of December, 2018, the gross salary of Opposite Party was Rs.65,075/- and net salary was Rs.37,947/-. It further appears from the evidence of P.W.1 that the Opposite Party had got the job under Rehabilitation Assistance

Scheme. Thus, he has an obligation to look after the difficulties of his sisters even though they have got married in the meantime. Admittedly, the Opposite Party has his mother, who is dependent on him. It is further held by learned Judge, Family Court, Rayagada that the Petitioner is an educated lady having training qualification.

6. Taking into consideration all these materials, learned Judge, Family Court, Rayagada came to the finding that the Petitioner is entitled to a sum of Rs.10,000/- per month. Mr. Jena, learned counsel for the Petitioner submits that the salary of the Opposite Party has been enhanced in the meantime. But that cannot be a ground to consider the enhancement of monthly maintenance of the Petitioner in this RPFAM. The Petitioner has a remedy to seek for enhancement of the monthly maintenance.

7. On perusal of the materials on record, I find that the impugned order is a reasoned one and warrants no interference. Accordingly, the RPFAM being devoid of any merit stands dismissed.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks