

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No.81 of 2022

Sibananda Swain

..... Petitioner

Ms. Sujata Jena, Advocate
on behalf of Mr. P.K.Mohanty, Advocate

-versus-

Sabita Bhuyan @ Swain and another

.... Opp. Parties

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER
29.09.2022

Order No.

1. This matter is taken up through hybrid mode.
2. Petitioner in this RPFAM seeks to assail the order dated 7th October, 2021 (Annexure-1) passed in CRP No.1 of 2021, whereby learned Judge, Family Court, Rayagada directed the present Petitioner to pay maintenance at the rate of Rs.4,000/- per month to the Opposite Party No.1 and Rs.3,000/- per month to the Opposite Party No.2 from the date of application, i.e., 4th January, 2021.
3. Ms. Jena, learned counsel for the Petitioner submits that relationship between the parties is not disputed. It is also borne out from record that the Petitioner has MBA degree, but there is no material on record with regard to the income of the Petitioner. It is her submission that in spite of being a MBA degree-holder, the Petitioner could not get a lucrative job for which the Opposite Party No.1 left the matrimonial home and is staying with her parents. The Petitioner does not have any constant source of income. Learned Judge, Family Court did

not at all make any endeavour to find out the income of the Petitioner. Quantum of maintenance has been assessed without any basis. She further submits that the maintenance awarded in favour of Opposite Parties is unreasonable and inflated. The Opposite Party No.1 is leading a comfortable life in her parental home. Hence, the impugned order requires reconsideration.

4. Upon hearing learned counsel for the Petitioner, this Court finds that the Petitioner has neither filed any objection to the petition under Section 125 Cr.P.C. nor led any evidence disputing the averments made in the said petition. On the other hand, Opposite Party No.1 being examined herself as PW-1 adduced evidence in support of her case. Income of the Petitioner is within his special knowledge and since he has not come out with such information, learned Judge, Family Court, Rayagada had to make a guess work and assessed the maintenance. Looking at the status of the parties, learned Family Court has passed the impugned order. Since no material is placed before this Court to take a different view in the matter, I am not inclined to interfere in the impugned order.

5. Accordingly, the RPFAM being devoid of any merit stands dismissed.

(K.R. Mohapatra)
Judge