

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No.214 OF 2018

Ranjan Gonda

.....

Petitioner

Mr. Basudev Mishra, Advocate

-versus-

Indulina Dukha and others

....

Opp. Parties

Mr. Subodh Kumar Mohanty, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

25.07.2022

Order No.

6. 1. This matter is taken up through Hybrid mode.
2. Order dated 3rd July, 2018 (Annexure-1) passed in Criminal Proceeding No.36 of 2017 is under challenged in this RPFAM, whereby the learned Judge, Family Court directed the present Petitioner to pay maintenance @ Rs.2,000/- per month to Opposite Party No.1-wife and Rs.3,000/- per month to each of Opposite Party Nos.2 and 3 (children) from the date of application, i.e., 14th September, 2017.
3. Mr. Mishra, learned counsel for the Petitioner submits that Opposite Party No.1 is the legal married wife and Opposite Party Nos.2 and 3 are born out of their wedlock. Opposite Party No.1 is also serving as Primary School teacher like that of the Petitioner. Both of them are drawing equal salary. However, the Petitioner has to maintain his old parents. It is submitted that Opposite Party No.1 has the equal responsibility to maintain the children as that of the Petitioner. Thus, putting the entire burden on the Petitioner to maintain Opposite Party No.1 as well as

children is not sustainable. He, therefore submits that the matter requires re-consideration.

4. Mr. Mohanty, learned counsel for Opposite Parties submits that the salary of the Petitioner as well as Opposite Party No.1 has been enhanced in the meantime. Even if the Petitioner and Opposite Party No.1 are drawing equal salary, but the Opposite Party No.1 has the right to maintain the status that she would have maintained living with the Petitioner. It is the legal obligation of the Petitioner to maintain his wife and children. Considering the same, learned Judge, Family Court has directed to pay a meager sum of Rs.2,000/- per month to the Opposite Party No.1 and Rs.3,000/- each per month to Opposite Party Nos. 2 and 3 towards maintenance. As such, the same requires no interference.

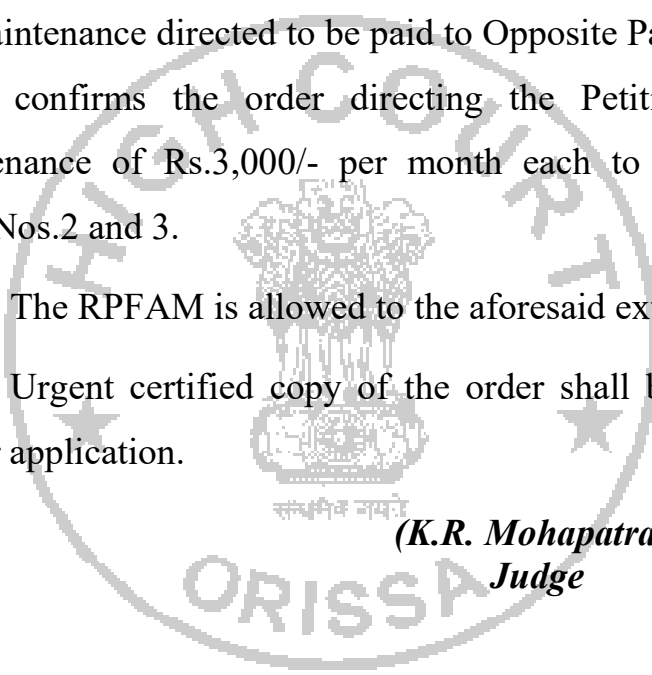
5. Taking into consideration the submissions of learned counsel for the parties, this Court finds that Opposite Party No.1 has admitted that the Petitioner has his old parents to be looked after and maintained by him. It further appears that both the Petitioner and Opposite Party No.1 are drawing equal salary. Law is well-settled both the parents have equal responsibility to maintain their children. When both the parents are earning and have equal salary, they are under legal obligation to maintain their children. Entire burden should not be put on the Petitioner to maintain the children. Since learned trial Court has already directed the Petitioner to pay Rs.3,000/- per month to each of Opposite Party Nos. 2 and 3 towards maintenance, I am not inclined to interfere with the same. However, taking into consideration that the Opposite Party

No.1 has an obligation to maintain the children and the Petitioner has his old parents depending upon him for their sustenance, I am of the considered opinion that maintenance directed to be paid to Opposite Party No.1 requires reconsideration.

6. In view of the discussions made above, I am of the opinion that interest of justice will be best served if the Petitioner is directed to pay maintenance only to Opposite Party Nos. 2 and 3 (children) only. Accordingly, while setting aside the maintenance directed to be paid to Opposite Party No.1, this Court confirms the order directing the Petitioner to pay maintenance of Rs.3,000/- per month each to the Opposite Party Nos.2 and 3.

8. The RPFAM is allowed to the aforesaid extent.

Urgent certified copy of the order shall be granted on proper application.

The seal of the Orissa High Court is a circular emblem. It features the Ashoka Lion Capital in the center, with the motto 'सत्यमेव जयते' (Satyameva Jayate) in Devanagari script below it. The words 'HIGH COURT' are written in an arc at the top, and 'ORISSA' is written in an arc at the bottom. Two stars are positioned on either side of the central emblem.
(K.R. Mohapatra)
Judge