

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM NO. 288 OF 2019

Raja @ Raj Kishore Sahoo

....

Petitioner

Mr. Debendra Nayaran Pattnaik,
Advocate

-versus-

Reena Sahoo

....

Opp. Party

Mr. M.B. Swain, Advocate

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
04.08.2022**

Order No.

- 08.
1. This matter is taken up through hybrid mode.
 2. Although this matter is listed for orders, on consent of learned counsel for the parties, the same is taken up for final disposal.
 3. The Petitioner in this RPFAM seek to assail the order dated 29th May, 2018 passed by learned Judge, Family Court, Nayagarh in CRLMP No.512 of 2016 (arising out of C.M.C. No. 43 of 2016), whereby the Petitioner has been directed to pay a sum of Rs.4000/- per month to the Opposite Party as maintenance from the date of application, i.e. 25th August, 2016.
 4. Mr. Pattnaik, learned counsel for the Petitioner submits that the Opposite Party is the legally married wife of the Petitioner. However, she left the matrimonial home voluntarily without any reasonable cause. The Petitioner is doing business on the footpath in Nayagarh market. He does not have sufficient means to pay Rs.4,000/- per month to the Opposite Party. It is

his submission that adequate opportunity of hearing was not provided to the Petitioner to adduce evidence in the matter. Learned Judge, Family Court, Nayagarh without considering the oral testimony of the Petitioner (OPW.1) has passed the impugned order, which is not sustainable in the eyes of law. Hence, he submits that the quantum of maintenance requires reconsideration.

5. Mr. Swain, learned counsel for the Opposite Party submits that the Opposite Party is a destitute lady. Due to cruelty and torture by the Petitioner, she had to leave matrimonial home. She does not have any independent source of income. The Petitioner is an electrician and was earning about Rs.20,000/- per month at the relevant time. Thus, direction to pay Rs.4,000/- per month to the Opposite Party-Wife as maintenance is neither unreasonable nor unjustified. He further submits that due to rise in cost of living, the Opposite Party requires enhancement in the amount for her sustenance. He, therefore, prays for dismissal of RPFAM.

6. Taking into consideration the submission of learned counsel for the parties and on perusal of the impugned order, it appears that the Petitioner was examined as OPW.1, but he did not produce any document either with regard to his income or with regard to his occupation. The Opposite Party in her evidence has specifically stated that the Petitioner is an electrician and is earning about Rs.20,000/- per month. No cogent evidence to rebut the same was filed by the Petitioner. In absence of any material to the contrary, learned Judge, Family

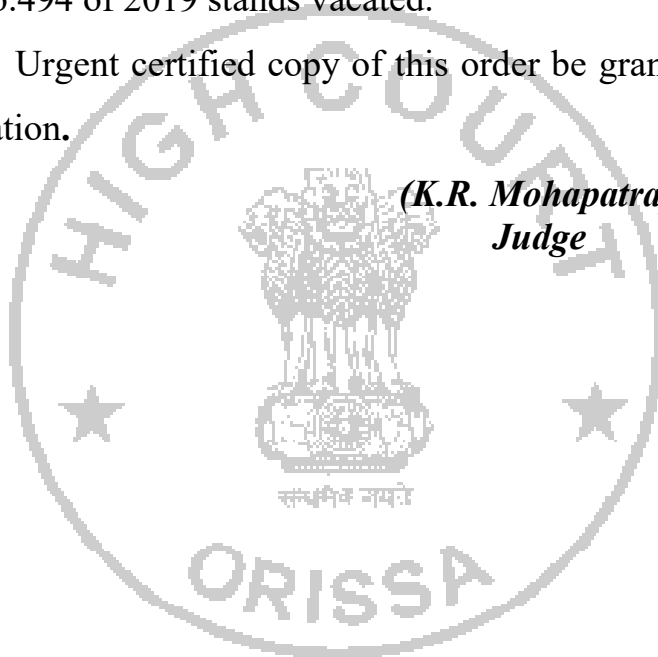
Court, Nayagarh accepted the statement of wife, who is the best person to depose about the occupation and income of her husband. In that view of the matter, I find no infirmity in the impugned order directing the Petitioner to pay a sum of Rs.4,000/- per month to the Opposite Party as maintenance.

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

8. The interim order dated 20th December, 2019 passed in I.A. No.494 of 2019 stands vacated.

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

(K.R. Mohapatra)
Judge



bks