

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.1 of 2019

1. Sunita Kumari aged about 18 years (Female) wife of Rahul Kumar.
2. Khushbu Kumari aged about 2 years (girl) Daughter of Rahul Kumar, under the Guardianship her mother namely Sunita Kumari, both resident of Haribalma, P.O.- Pachlakhi, P.S.- Nautan, Distt.- Siwan at present resident of Children's Home (Girls) Chapra (Saran).

... .. Appellants.

Versus

Rahul Kumar, male aged 19 years, S/o Jitendra Yadav, Resident of Village-Hai Balma, P.O.- Pachlakhi, P.S.- Nautan, District- Siwan.

... .. Respondent.

Appearance :

For the Appellants	:	Mr. Raghav Prasad, Advocate.
For the Respondent	:	Mr. Prakash Chandra Jha, Advocate.
		Mr. Bijay Prakash Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 08-12-2023

The appellant Sunita Kumari and her girl child claimed maintenance against respondent Rahul Kumar under Section 20 of the Hindu Adoptions and Maintenance Act, 1956. The Principal Judge, Family Court, Siwan, rejected the claim of the appellants on 16.11.2018 on the ground that the grievance of the appellant Sunita Kumari and her girl child is not maintainable. Hence, the present appeal.

2. Learned counsel for the appellants submitted that the Family Court has committed error in not entertaining the



appellant Sunita Kumari's Petition to maintain her minor girl child by the respondent. Under Section 20 of the Hindu Adoptions and Maintenance Act, 1956, the appellant Sunita Kumari is entitled to invoke remedy before the Family Court.

3. Heard learned counsel for the appellants.

4. Section 20 of the Hindu Adoptions and Maintenance Act, 1956 reads as under:

“20. Maintenance of children and aged parents.- (1) Subject to the provisions of this section a Hindu is bound, during his or her lifetime, to maintain his or her legitimate or illegitimate children and his or her aged or infirm parents.

(2) A legitimate or illegitimate child may claim maintenance from his or her father or mother so long as the child is a minor.

(3) The obligation of a person to maintain his or her aged or infirm parent or a daughter who is unmarried extends in so far as the parent or the unmarried daughter, as the case may be, is unable to maintain himself or herself out of his or her own earnings or other property.”

Underline Supplied

5. In the present case, the appellant Sunita Kumari is claiming maintenance towards illegitimate child of her-2nd Appellant. It could have been entertained provided respondent admitted that the illegitimate child of the appellant Sunita Kumari is of his. In the absence of such admission on behalf of the respondent, the grievance of the appellant Sunita Kumari



would be pre-mature. In other words, the appellant Sunita Kumari has to establish that her illegitimate child is of the respondent- Rahul Kumar. Accordingly, there is no infirmity in the Family Court's order dated 16.11.2018 passed in Maintenance Case No.225 of 2017.

6. The appellant- Sunita Kumari is at liberty to invoke appropriate remedy to get declaration that her minor illegitimate girl child is of respondent before the appropriate forum. She is also permitted to invoke appropriate writ remedy insofar as claiming victim's compensation, if any, from the State Government or the State Concerned Organization like State Legal Services Authority.

7. With the above observations, the present appeal stands disposed of, since the appellants failed to make out a case so as to interfere with the Family Court's order dated 16.11.2018 passed in Maintenance Case No.225 of 2017.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
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