

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 30 OF 2019

1. Sow. Shantabai W/o Ravindra Ravte,
Age : 30 Years, Occ. Housewife,
R/o. Deolana Tq. Kannad,
District Aurangabad.
2. Akshay Ravindra Ravata,
Age : 13 Years, Occ. Nil,
being minor u/g of appellant no.1

.. Revision Petitioners
(Ori. Applicants)

V E R S U S

1. Ravindra S/o Laxman Ravate,
Age : 35 Years, Occ. Agri & business
2. Lankabai W/o Laxman Ravate,
Age : 62 Years, Occ. Household,
3. Shobhabai Sominath Kshirsagar,
Age : Major, Occ. Household,
4. Sominath Trimbak Kshirsagar,
Age : Major, Occ. Agriculture
5. Kalabai Mahadu Malkar,
Age : 62 Years, Occ. Household,
6. Mahadu Laxman Malkar,
Age : 67 Years, Occ. Agriculture
7. Dattu Mahadu Malkar,
Age : 37 Years, Occ. Agriculture
8. Sonabai Aasaram Ravate,
Age : Major, Occ. Household,

All resident of Andhaner Tq. Kannad,
District Aurangabad.

.. Respondents

(Orig. Opponent)

Mr. S. F. Patel, Advocate for Applicant;

Mr. D. J. Choudhari, Advocate for respondents No.1 to 4;

...

CORAM : S. G. MEHARE, J.

DATE : 14.03.2023

ORAL JUDGMENT :

1. Rule. Rule returnable forthwith. By consent of the respective counsels, heard finally.

2. The petitioner wife has preferred the revision against the order of learned Judicial Magistrate F.C. Court No.2, Kannad in Criminal Misc. Application No. 348 of 2013 dated 29.03.2017 and P.W.D.V.A. Appeal No. 105/2017 decided by the learned Additional Sessions Judge, Aurangabad, on 27.11.2018.

3. The learned counsel for the petitioner-wife would argue that both Courts did not consider that the applicants have no shelter, thus they are entitled to the house rent. The Courts have committed error of law in not considering the copy of the agreement of lease, which proves that she was residing separately in a rented room. The respondent-husband had an intention to avoid the maintenance, thus he well in advance, transferred his property to his mother. His conduct

reveals that since inception he had an ill intention to deprive the applicants from their legal rights.

4. Per contra, the learned counsel for the respondents would argue that the applicant No.1 is getting interim maintenance of Rs. 5,000/- per month in the proceeding under Hindu Adoption and Maintenance Act, 1956 ("H.M.Act", for short). That proceeding is still pending.

5. In reply the learned counsel for the respondents, would argue that relief under Section 24 of the H.M.Act is temporary i.e. till the conclusion of the trial. The respondents have committed domestic violence against the applicants and drove them out of the house. Both Courts have consistently observed that the applicants were unable to maintain themselves and have no source of income. To avoid the maintenance, the respondent-husband has deliberately transferred his property to his mother.

6. The learned counsel for the respondent-husband would reply that the person to whom the property was sold is not his mother. The sale transaction was before the litigation between the parties. Therefore, it cannot be accepted that

the property was transferred to avoid responsibility to pay the maintenance to the applicants.

7. The respondent-husband did not challenge the Judgment impugned before this Court. Therefore, the observations that the domestic violence was committed and she was driven out of the house, therefore, she is entitled for the maintenance have attained the finality.

8. The respondent husband is an agriculturist. He has obligation to maintain the family. The respondent being an agriculturist, he must not have a documentary evidence to show his income. The income derived from the agriculture is tax free. However, considering the background, the standard of living, the Court is of the view that granting Rs. 500/- per month to petitioner No.2 is comparatively very less. He is school going boy. His needs are growing. Therefore, the Court is of the view that granting maintenance of Rs. 500/- per month to respondent No.2 is meager and unreasonable. It would be difficult to carry on the life with such a small amount. As far as respondent No.1 is concerned, she is getting sufficient amount from the Civil Court under the Hindu Adoptions and Maintenance Act. It was an interim

maintenance granted under Section 24 of the H.M.Act, subject to the final decision. Now, she is getting reasonable amount. So, considering the standard of living of the respective parties, the Court is of the view that Rs. 6,000/- per month to petitioner No.1 is sufficient. However, it would be subject to the decision of the Hindu Marriage Petition. If the maintenance of any type has been denied under the Hindu Marriage Petition, the applicant would be entitled to file a fresh application.

9. In view of the matter, the Court is of the view that petition is liable to be partly allowed by enhancing maintenance to petitioner No.2-son. Hence, I proceed to pass following order :-

ORDER

- (i) The revision application is partly allowed.
- (ii) The maintenance granted to the non applicant No.2 Akshay Ravindra Ravata is enhanced to Rs. 1,000/- per month from Rs. 500/- per month from the date of this order.
- (iii) The claim of the petitioner No.1 stands dismissed.
- (iv) The rule is made absolute in above terms.

- (v) Record and proceedings be returned to the learned trial Court.

(S. G. MEHARE J)

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