



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL REVISION APPLICATION NO.152 OF 2023

Sudhakar S/o Dashrath Gavai
Aged about 54 years,
Occupation : Service,
R/o. Pil Colony, Near Bhande College,
Akola, Tq. & Distt. Akola. **APPLICANT**
(Orig. Respondent)

...VERSUS...

1. Sau. Anita Sudhakar Gavai
Aged about 44 years,
Occupation : Household,
2. Ku. Arpita Sudhakar Gavai,
Aged about 21 years,
Occupation : Education,
3. Ku. Devika Sudhakar Gavai,
Aged about 18 years,
Occupation : Education,
4. Ku. Khushi Sudhakar Gavai,
Aged about 16 years,
Occupation : Education,
5. Ku. Shubhra Sudhakar Gavai,
Aged about 10 years,
Occu. Education,
respondent nos.4 & 5 are
minor through natural guardian
mother applicant no.1-Anita
Sudhakar Gavai,
All R/o. Pil Colony, Near Bhande College,
Akola, Tah. And Distt. Akola. **NON-APPLICANTS**
(Orig. Petitioners)

Mr. A. D. Girdekar, Advocate for Applicant.
Mr. V. G. Bhamburkar, Advocate Non-Applicants.

CORAM: **M. W. CHANDWANI, J.**
DATE: **30th JANUARY, 2024.**

ORAL JUDGMENT:

By this application, the order dated 18.05.2023 passed in Petition No.E-39/2019 by the learned Judge, Family Court, Akola thereby granting Rs.9000/- per month towards maintenance to each non-applicants has been challenged.

2. The facts giving rise to file the present revision application can be stated as under:

The non-applicant No.1 is the wife of the applicant and non-applicant Nos.2 to 5 are daughters. The non-applicants filed petition under Section 125 of the Criminal Procedure Code for grant of maintenance at the rate of Rs.10,000/- per month before the learned Family Court at Akola. It is contended that the applicant is working as Assistant Sub Inspector (ASI) in the Central Reserve Police Force and used to get transferred at various places. He did not provide sufficient maintenance and has not taken care of the non-applicants. According to non-applicant No.1, they require Rs.10,000/- towards maintenance.

3. The applicant appeared before the Family Court and filed his reply. After considering the material available on record, the learned Family Court passed the impugned order directing the applicant to pay Rs.9000/- per month to each of the non-applicants. Being aggrieved by the same, the present revision application came to be filed.

4. Heard learned counsel for the applicant. Though there are various grounds raised in the revision application including no case of domestic violence, however, the principal contention of the learned counsel for the applicant is that the learned Judge, Family Court has not considered the income of the applicant and granted exorbitant amount of maintenance to each of the non-applicants. According to him, the in-hand salary of the applicant is around Rs.41,000/- per month. He submits that though the applicant owns some agricultural land, it is a small piece of land and the Family Court has not considered this aspect and passed the impugned order. Therefore, he submits that the quantum of maintenance is too high and it is not possible for the applicant to pay this amount.

5. Per contra, the learned counsel appearing on behalf of the non-applicants vehemently submits that the Court has rightly

recorded the reasons that the applicant failed to maintain the non-applicants. According to him, the applicant himself was ready to pay Rs.35,000/- per month in view of settlement which had taken place four year ago, prior to the date of judgment. He submits that apart from salary, he has agricultural income which has been brought on record. Therefore, he supports the judgment of the learned Family Court and prayed for rejection of the application.

6. Perusal of judgment reveals that the Family Court has found the in-hand salary of the applicant to be Rs.41,621/-. However, the Family Court has held that apart from his salary, the applicant ha agricultural income and passed the impugned order.

7. No doubt, the applicant has agricultural land as he admitted in cross-examination but the fact remains that said agricultural land is a small piece of land. The Family Court has not assessed the agricultural income and without considering the area of the agricultural land has directed the applicant to pay Rs.9000/- per month to each of the non-applicants i.e. Rs.45,000/-. It is matter of record that applicant has agreed to pay Rs.35,000/- per month to the non-applicants. Thereafter, a period of four years has lapsed. Considering the in-hand salary as well as the area of

agricultural land which he possessed, maintenance @ Rs.8000/- per month to each of the non-applicants would be a just and proper amount.

8. In view of this, the application is partly allowed and the order of Family Court is modified as under:

The applicant shall pay Rs.8000/- per month to each of the non-applicants from the date of the application before the Family Court. Rest of the operative order of the impugned judgment and order will remain same.

9. In the aforesaid term, the application is disposed of.

JUDGE

NSN