

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**109****CRR-F-1410-2023(O&M)****Date of order: 22.03.2024****Devi (now deceased) through LRs****.....Petitioner(s)****Vs.****Satbir****.....Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:-** Mr. Surender Singh Pannu, Advocate
for the petitioner.***********Nidhi Gupta, J.****CRM-41216-2023**

This is an application under Section 5 of Limitation Act
for condonation of delay of 225 days in filing the petition.

After going through the contents of the application,
which is supported by affidavit of Mamta @ Shalu, the same is allowed
subject to all just exceptions and delay of 225 days in filing the present
petition is condoned.

MAIN CASE

Present petition has been filed by legal heirs of
deceased-Devi w/o Satbir who, along with the deceased, had been granted
maintenance allowance of Rs.9,000/- per month to be paid by the
respondent vide order dated 04.08.2015 passed by the learned District
Judge, Family Court, Hisar in a proceeding under Section 125 Cr.P.C..
Petitioners before this Court are the three daughters aged 23, 15 and 13

years and one son aged 21 years born out of the wedlock of the deceased Devi and the respondent.

2. Challenge in the present petition is to order dated 11.11.2022 passed by learned Additional Principal Judge, Family Court Hisar whereby Execution Petition filed by the above said LR's of their deceased mother Devi claiming the arrears of maintenance qua the mother, has been dismissed.

3. At the very outset learned counsel submits that the petitioners along with their deceased mother Smt. Devi wife of respondent had filed an application under Section 125 Cr.P.C. which had been allowed by the learned District Judge, Family Court, Hisar vide order dated 04.08.2015 (Annexure P1) whereby the deceased Devi was granted maintenance of Rs.3,000/- per month; and the petitioners herein were each granted final maintenance of Rs.1,500/- per month. It is stated that however, the respondent was in arrears of maintenance. Accordingly, the petitioners along with their mother Devi had filed execution petition No.1152 of 2018 (Annexure P3) for claiming arrears of maintenance for the period 09.10.2013 to 09.12.2018 for an amount of Rs.4,25,000/-. During pendency of the said execution application, petitioners No.2 and 3 therein attained majority; and decree holder No.1 namely Devi expired on 22.08.2021 after leaving behind two major and 2 minor decree holders/petitioners No.2 to 5 therein as legal heirs. Accordingly, petitioners No.2 to 5 therein moved an application for impleading them as LR's of decree holder No.1/Devi. Said application was allowed, however, the

petitioners' claim for arrears of maintenance due qua their mother was rejected vide impugned order dated 11.11.2022.

4. Learned counsel for the petitioner contends that under Section 14 of the Hindu Succession Act, 1956, it is stipulated as under:-

"14. Property of a female Hindu to be her absolute property.

(1) Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner. Explanation. —In this sub-section, "property" includes both movable and immovable property acquired by a female Hindu by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as stridhana immediately before the commencement of this Act.

(2) Nothing contained in sub-section (1) shall apply to any property acquired by way of gift or under a will or any other instrument or under a decree or order of a civil court or under an award where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such property."

5. It is submitted that accordingly, the petitioners are entitled to arrears of maintenance due from their respondent father. It is however admitted that the above said plea could not be raised by the petitioners before the learned Executing Court. It is accordingly, prayed, that without adverting to the matter on merits, the petitioners may be

permitted to withdraw the present petition with liberty to raise all pleas available to them as per law, before the learned Executing Court.

6. Permitted to do so.
7. Dismissed as withdrawn with liberty aforesaid.
8. Pending application(s) if any also stand(s) disposed of.

22.03.2024

Sunena

Whether speaking/reasoned

Whether reportable

(Nidhi Gupta)

Judge

Yes/No

Yes/No