



CrI.O.P.No.22072 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2025

CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

CrI.O.P.No.22072 of 2025
and CrI.M.P.No.15112 of 2025

1.V.Natarajan

2.N.Ramesh Kumar

... Petitioners

Vs.

1.M.Sumathi

2.Minor Vasanthavel

... Respondents

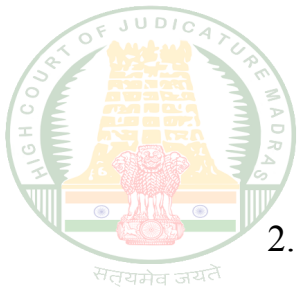
PRAYER : Criminal Original Petition is filed under Section 528 of BNSS, to call for the records pertaining Maintenance Case filed by the respondents against the petitioners in M.C.No.1 of 2025 pending on the file of the learned District Munsif cum Judicial Magistrate, Vedaraniyam and to quash the same.

For Petitioners : Mr.S.Senthil

For Respondents : No appearance

ORDER

This petition has been filed challenging the petition filed by the respondents under under Section 144 of Bharatiya Nagarik Suraksha Sanhita, 2023 and Hindu Adoptions and Maintenance Act, 1956.



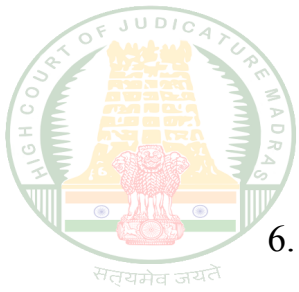
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2. The petitioners are the father in law and brother in law of the first respondent and the second respondent is the grand child of the first respondent.

3. It is case of the petitioners that the first respondent was married to one Manogaran/son of the petitioner on 24.03.2011 and out of their wedlock, the second respondent was born on 03.02.2022. The first respondent's husband died on 04.07.2022 leaving behind the respondents as the legal heirs and they were also residing along with the petitioners in the small house. She has also filed a suit in O.S.No.77 of 2022 for partition on the file of the learned Subordinate Court, Nagapattinam. Since, she and her minor has no income, she has filed the petition under Section 144 of BNSS, 2023. Challenging the said petition, the present petition has been filed.

4. The learned counsel for the petitioners submitted that the above petition is not maintainable, at the most, the petitioner being the daughter in law can seek maintenance only by filing the suit.

5. Heard both sides and perused the materials placed on record.



6. The petitioner seeks maintenance under Section 144 of BNSS,

2023. Section 144 of BNSS, 2023 reads as follows:

144. Order for maintenance of wives, children and parents.

(1) If any person having sufficient means neglects or refuses to maintain-

(a) his wife, unable to maintain herself; or

(b) his legitimate or illegitimate child, whether married or not, unable to maintain itself; or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself; or

(d) his father or mother, unable to maintain himself or herself,
a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such female child, if married, is not possessed of sufficient means:

Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under



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the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

Explanation. - For the purposes of this Chapter, "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2)Any such allowance for the maintenance or interim maintenance and expenses of proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

(3)If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation. - If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4)No wife shall be entitled to receive an allowance for the maintenance or the interim maintenance and expenses of proceeding, from her husband under this section if she is living



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in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

7. On close reading of the provision under Section 144 of BNSS, 2023, a daughter-in-law cannot lay a claim against her parents-in-law. Provisions of law envisage that a wife can lay a claim for maintenance. Likewise, parents can maintain a petition against their major children. So also minor children can lay a claim. There is no provision in the Act for the daughter in law to claim maintenance from the father in law and brother in law.

8. Such view of the matter, filing a petition before the Court below under Section 144 of BNSS, 2023 cannot be maintained. It is for the petitioner to file necessary suit for maintenance under Section 19 of the Hindu Adoptions and Maintenance Act, 1956.

N. SATHISH KUMAR, J.



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WEB COPY 9. Accordingly, the petition in MC.No.1 of 2025 pending on the file of the learned District Munsif cum Judicial Magistrate, Vedaranyam stands set aside and this petition stands allowed. Consequently, connected miscellaneous petitions stand closed.

11.09.2025

dhk

Neutral Citation: Yes/No

To

1. The District Munsif cum Judicial Magistrate, Vedaraniyam
2. The Public Prosecutor,
High Court of Madras.

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