



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JULY, 2023

BEFORE

THE HON'BLE MR JUSTICE H.P.SANDESH

REV.PET FAMILY COURT NO. 159 OF 2023

BETWEEN:

SRI. SRINIVAS D SIRIYANNAVAR
AGED ABOUT 51 YEARS
S/O DURGAPPA SIRIYANNAVAR
M E (ENDG. SYS. ENGR) PGDEM
PGDCA, LECTURER, T.M.A.E
POLYTECHNIC COLLEGE
BELLARY ROAD, HOSPET 583201
BELLARY DISTRICT

...PETITIONER

(BY SRI. SIDDHARTH SUMAN, ADVOCATE)

AND:

1. SMT. K B MAMATHA
AGED ABOUT 41 YEARS
W/O SRINIVAS D SIRIYANNAVAR
HOUSEWIFE
2. MASTER SHREYAS
AGED ABOUT 15 YEARS
S/O SRINIVAS D SIRIYANNAVAR
5TH STANDARD
3. KUM SPOORTHI
AGED ABOUT 13 YEARS
D/O SRINIVAS D SIRIYANNAVAR
3RD STANDARD

PETITIONERS 2 AND 3 ARE MINORS





REP. BY THEIR NEXT FRIEND
NATURAL MOTHER
SMT K B MAMATHA

ALL ARE R/O C/O B G KANNANNAVAR
HOUSE NO 250/MIG, PARVATHI NILAYA,
F BLOCK, II STAGE, KALLAHALLI HUDCO
(KHB) VINOBBHANAGAR
SHIVAMOGGA CITY 577214

...RESPONDENTS

THIS RPFC IS FILED UNDER SECTION 19(4) OF FAMILY COURT ACT, AGAINST THE ORDER DATED 07.03.2023 PASSED IN CRL. MISC. NO.133/2017 ON THE FILE OF THE PRINCIPAL JUDGE, FAMILY COURT, SHIVAMOGGA, ALLOWING THE PETITION FILED UNDER SECTION 125 OF Cr.P.C. FOR CLAIMING MAINTENANCE.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed challenging the order dated 07.03.2023 passed in Crl.Misc.No.133/2017 by the Principal Judge, Family Court, Shivamogga.

2. This matter is listed for admission. Heard the learned counsel for the petitioner.

3. The challenge made in this petition is that granting of maintenance of Rs.15,000/- each to wife and



other two children is exorbitant and also the counsel contend that the parents have also filed criminal miscellaneous and the same is compromised before the Lok-Adalath and he is paying maintenance of Rs.20,000/- to their parents also. The counsel also vehemently contend that Ex.R1 is produced to show that the wife is also working. The counsel would also submit that he is getting only salary of Rs.90,000/- after deduction of loan payment and the document discloses that he was drawing salary of Rs.1,66,044/- in the month of August, 2021 as per Ex.R2 / Ex.P10 and he is making payment towards loan amount. Hence, the amount awarded by the trial Court is on higher side.

4. Having perused the order of the trial Court, the trial Court while considering the contention of respondent No.1 in paragraph No.25 taken note of the admission given by PW.1 in the cross-examination that in terms of Ex.R1 her salary was only Rs.9,000/- per month, but she gives an explanation in her evidence dated 06.08.2021



that due to Covid-19 School authorities paying only Rs.5,000/- per month. In her affidavit of disclosure of assets and liabilities dated 17.02.2022 she has stated that her monthly income was Rs.10,000/- and taken note of her income also. It is also important to note that the trial Court while considering the capability of the payment of maintenance in paragraph No.32 taken note of Ex.P2 and also Ex.P10. Ex.P10 is clear that he was getting salary of Rs.1,66,044/-. The trial Court in para No.34 taken note of the fact that he is paying Rs.20,000/- to his parents as per the order of Family Court, Dharwad. Admittedly, Crl.Misc.No.146/2017 was also settled and compromised before the Lok-Adalath. The trial Court taken note of the contention of the petitioner herein that he has to pay Rs.48,000/- towards medical, vehicle and laptop loan and produced Exs.R3, R4, R5 and R6 and comes to the conclusion that in the cross-examination he has categorically admitted that loan was availed by him and it was closed on 02.01.2022 and April, 2022. Hence, the contention of the petitioner herein is not accepted. It is



also his case that he has to pay Rs.3,500/- towards rent, Rs.6,000/- towards mess and Rs.10,000/- to the petitioners as per judgment and decree of O.S.No.5/2011, but no documents produced by him to corroborate the same.

5. In detail, the trial Court discussed in para Nos.35 and 36 and comes to a conclusion that Rs.15,000/- reasonable to both wife and other two children and on perusal of the records also petitioner Nos.2 and 3 are the school going children. When the petition was filed in the year 2017, they are aged about 10 years and 8 years respectively and to substantiate that they are studying, produced the documents issued by concerned school i.e., study certificate issued by Cambridge International Public School, Shivamogga in respect of both son and daughter and also produced the documents for having paid fees to the school in terms of Exs.P.44, 45, 46 and 47.

6. Having taken note of the material on record when he was getting salary of Rs.1,66,044/- in the year



2021, even though taking care of the parents under the same time, he has to take care of wife and two children who are pursuing their education also. Merely, the wife is getting salary of Rs.10,000/- in terms of Ex.R1 and the same cannot be a ground to reject the claim of the wife. In order to maintain herself and her two children, it appears that she joined a temporary job in terms of Ex.R1. Hence, I do not find any error committed by the trial Court in awarding maintenance of Rs.15,000/- each to petitioner Nos.1 to 3.

7. Learned counsel would submit that he is also paying maintenance of Rs.10,000/- in original suit and having considered the order of trial Court towards maintenance of Rs.15,000/- each and no need to pay again Rs.10,000/- as awarded in original suit. The trial Court also having taken note of the status of the petitioner herein, determined the maintenance of Rs.15,000/- each. The trial Court had taken note of the said contention that awarding of Rs.10,000/- in the suit, the petitioner herein



has not produced any documents for having paid the Rs.10,000/- as awarded in the original suit. Hence considered the same and if it is paid in view of the order passed in original suit, the same has to be deducted out of the award made by the trial Court i.e., Rs.15,000/- each. Hence, no merit in the petition. In view of discussion made above, the petition is dismissed.

Sd/-
JUDGE

SSB