



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF NOVEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE R. NATARAJ

REVISION PETITION FAMILY COURT NO. 58 OF 2021

BETWEEN:

SMT. H.R. RAJAMMA
W/O LATE RANGE GOWDA
AND D/O LATE RAME GOWDA,
AGED ABOUT 66 YEARS,
R/A NO.824, 3RD STAGE,
GOKULAM, VANI VILAS MOHALLA,
MYSURU-570002.

...PETITIONER

(BY SRI. G.M.ANANDA, ADVOCATE)

AND:

SRI. H.R. RAJEEV
S/O LATE RANGE GOWDA,
AGED ABOUT 44 YEARS,
R/AT 415/A, KANTUR ROAD,
1ST MAIN ROAD, 3RD STAGE,
GOKULAM, MYSURU-570002

...RESPONDENT

(BY SRI. M.J. ALVA, ADVOCATE)

THIS RPFC IS FILED UNDER SECTION 19(4) OF THE FAMILY COURTS ACT, AGAINST THE JUDGMENT DECREE DATED 09.04.2021 PASSED IN C.MIS.NO.719/2019 ON THE FILE OF THE II ADDITIONAL PRINCIPAL JUDGE, FAMILY COURT, MYSURU PARTLY ALLOWING THE PETITION FILED UNDER SECTION 125 OF CR.P.C., FOR MAINTENANCE.

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





ORDER

The petitioner has challenged the order dated 09.04.2021 passed by the II Additional Principal Judge, Family Court at Mysuru in C.Misc.No.719/2019 by which, it enhanced the maintenance awarded by the Trial Court from Rs.10,000/- to Rs.15,000/- per month and directed the respondent to pay a sum of Rs.50,000/- per annum towards her medical expenses.

2. The petitioner herein filed a petition under Section 125 of Cr.P.C. claiming maintenance from the respondent. The petitioner claimed that the respondent is her son and that the property situate at Gokulam, Mysuru, was purchased by her father and she constructed a marriage hall over the said property. She claimed that the respondent with an ulterior motive, took signature on certain blank papers, which she signed in good faith. Later, it turned out that the signed papers were misused to create a gift deed gifting the said property to her husband. She contended that her husband died and it came to her knowledge that the respondent had taken the property by way of gift deed. She contended that she was neglected and not maintained by the respondent. She also contended that she had no source of income and that the respondent did



not take care of her food, clothing, shelter or medicines etc., She claimed that she was in need of a sum of Rs.25,000/- per month for her maintenance.

3. The aforesaid petition was opposed by the respondent, who contended that the property in question was purchased by his father in the name of the petitioner and that the petitioner executed the gift deed conveying the property to his father. He claimed that his father had constructed the building by raising a loan and bequeathed the said property to the respondent. He claimed that the petitioner was getting sufficient income from the property of her parents and therefore, she was not entitled to claim any maintenance from the respondent. Besides this, he contended that his father had raised a loan to construct a building on the property and that the rent generated from the building was used to pay up the EMIs. He contended that except the rent from the building, he has no other source of income and therefore, he contended that the petitioner is not entitled to claim any maintenance from the respondent.



4. Based on this contention, the Trial Court set down the case for trial. The petitioner examined herself as PW.1 and marked Exs.P1 to P22. The respondent was examined as RW.1 and he marked Exs.R1 to R8.

5. Based on the oral and documentary evidence, the Trial Court held that the petitioner had failed to prove the income of the respondent. However, taking into account the offer made by the respondent that he would pay a sum of Rs.15,000/- per month, the Trial Court directed the respondent to pay a sum of Rs.15,000/- per month as maintenance to the petitioner and also to pay a sum of Rs.50,000/- per annum towards medical expenses.

6. Being aggrieved by the said order, the petitioner is before this Court.

7. The learned counsel for the petitioner contended that the respondent is drawing more than Rs.2,50,000/- as rent from the tenants in the property and that the petitioner has no other source of income and is entirely dependant on the respondent for her maintenance. He submits that the petitioner is unable to maintain herself and that she is now 67



years old and her monthly medical expenses itself exceed a sum of Rs.10,000/- per month and therefore, the order passed by the Trial Court granting maintenance of Rs.15,000/- per month be enhanced.

8. Per contra, the learned counsel for the respondent submits that except the rental income from the building at Gokulam, the respondent does not have any other source of income and whatever rent that is earned is used to pay up monthly installments to the banks, where the father of the respondent had raised a loan to construct a building. He therefore, submits that any indulgence to increase the maintenance awarded by the Trial Court would be against the interest of the respondent.

9. I have considered the submissions made by the learned counsel for the petitioner as well as the learned counsel for the respondent.

10. A perusal of the impugned order passed by the Trial Court discloses that the Trial Court did not insist the parties to file an affidavit setting out the list of assets and liabilities of the parties, as held by the Hon'ble Apex Court in a somewhat



similar situation between a husband and wife in the case of ***Rajnish vs. Neha and another [(2021) 2 SCC 324]***.

11. The petitioner is mother and the respondent is son and therefore, the respondent owes a duty to maintain the petitioner till her life time. The respondent claimed that he was receiving rent from the tenants in the property constructed at Gokulam in Mysuru. He contended that some tenants particularly, Vijaya Bank and Kotak Mahindra Bank, who were regularly paying rent have stopped paying rent, as the petitioner had represented to them that they should not pay rent to the respondent in view of the dispute raised by the petitioner regarding the gift deed executed by her in favour of her husband and consequent gift deed executed by him in favour of respondent. He also contended that whatever money that was generated from the premises was used to service the loan that his father had raised and therefore, the respondent is not in possession of any other income to pay higher maintenance to the petitioner. In addition, he contended that the petitioner had initiated the proceedings in C.Misc.No.434/2006 against her husband and that the Court had awarded maintenance of Rs.15,000/- per month and also a



sum of Rs.25,000/- per month towards litigation expenses. He therefore, contends that the petitioner was sufficiently maintained during the life time of his father and now he is taking care of needs and necessities of the petitioner.

12. Having regard to the fact that the respondent had himself offered before the Trial Court to pay a sum of Rs.15,000/- per month as maintenance and also a sum of Rs.50,000/- per annum towards her medical expenses, this Court is of the opinion that it would be just and appropriate to enhance the maintenance to offset the rate of inflation. Thus, the maintenance deserves to be enhanced to a sum of Rs.20,000/- per month. In addition to the maintenance of Rs.20,000/- per month, the respondent shall continue to pay a sum of Rs.50,000/- per annum towards medical expenses of the petitioner and also avail a health insurance for the petitioner for a sum of Rs.5,00,000/- every year till her lifetime. This would definitely take care of the needs and necessities of the petitioner, as it is stated at the bar that the petitioner has been provided with a separate residence by her father.



13. In view of the above, this petition is ***allowed in part.*** The maintenance of Rs.15,000/- per month awarded by the II Additional Principal Judge, Family Court at Mysuru in C.Misc.No.719/2019 is enhanced to a sum of Rs.20,000/- payable by the respondent every month from the date of filing of C.Misc.No.719/2019. He shall also pay a sum of Rs.50,000/- per annum towards medical expenses of the petitioner and also avail a health insurance for the petitioner with a coverage of Rs.5,00,000/-, till her life time. Any amount already paid towards monthly maintenance and medical expenses shall be deducted.

14. In view of disposal of the petition, pending I.As., if any, do not survive for consideration and the same stand rejected.

Sd/-
JUDGE

PMR
List No.: 1 Sl No.: 25