



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JANUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR

REV.PET FAMILY COURT NO. 52 OF 2023

BETWEEN:

MR YASEER ARFATH
S/O ABDUL RAHIM
AGED ABOUT 34 YEARS,
R/A DOOR NO. 1326, 2ND STAGE,
RAJIV NAGAR MYSURU
DISTRICT KARNATAKA : 570 001

...PETITIONER

(BY SRI. OMRAN GULAM AHMED KHAN, ADVOCATE)

AND:

1. MRS. UMME SANIYA
W/O MR. YASEER ARFATH
AGED ABOUT 24 YEARS,
2. INAYA SHAIKH
D/O YASEER ARFATH
AGED ABOUT 5 YEARS,
(MINOR)
3. MR. IZHAAN ARFATH SHAIKH
S/O YASEER ARFATH
AGED ABOUT 1½ YEARS,
(MINOR)





(BOTH RESPONDENT NO. 2 AND 3
REPRESENTED BY THEIR NATURAL GUARDIAN
RESPONDENT NO. 1)
ADDRESS AT NO. 2555/1,
EREKATTE STREET, LASHKAR
MOHALLA MYSURU – 570 001.

...RESPONDENTS

(BY SRI. N KUMAR, ADVOCATE FOR R1;
R2&R3 ARE MINORS REP. BY R1)

THIS RPFC IS FILED U/S.19(4) OF THE FAMILY COURTS
ACT 1984 AGAINST THE JUDGMENT AND DECREE DATED
16.01.2023. PASSED IN C.MISC.NO.551/2022 ON THE FILE
OF THE IV ADDITIONAL PRINCIPAL FAMILY JUDGE, MYSURU.
PARTLY ALLOWING THE PETITION FILED U/S.125 OF Cr.P.C
FOR MAINTENANCE.

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

ORDER

The revision petition is filed by the petitioner-
husband challenging the judgment and order dated
16.01.2023 passed in CrI.Misc.No.551/2022 by IV Addl.
Prl. Family Judge, Mysuru, calling in question the grant of
maintenance to the respondents. The relationship between
the petitioner and respondents are not disputed.



2. The revision petitioner is the husband of respondent No.1 and father of respondent Nos.2 and 3. On certain allegations, the respondents have filed petition under Section 125 of Cr.P.C., praying to grant maintenance amount to the respondents. It is stated that the petitioner deserted the wife and children. Therefore, the respondents were constrained to file petition before the family Court and the family Court has granted maintenance of Rs.20,000/- per month to petitioner No.1 and Rs.5,000/- per month each to petitioner Nos.2 and 3. The said order is challenged in this revision petition.

3. The family Court in detail has considered the evidence on record and observed that the petitioner is running gujari shop in large scale beside being the owner of crane, which can be seen in photographs-Ex.P.9 and Ex.P.10. The petitioner has admitted in the cross-examination that he has taken his house on lease basis by making payment of Rs.10,00,000/- and the petitioner and his parents are residing in the said lease



house. The family Court has also observed that the petitioner is able to purchase two wheeler worth of Rs.1,20,000/-. Even though, the petitioner has stated that by raising loan that two wheeler was purchased, but no evidence is produced before the Court that he has raised loan for purchasing two wheeler worth of Rs.1,20,000/-. Even though, if the petitioner has purchased two wheeler by making payment of Rs.1,20,000/- or by raising loan, on both counts, it is proved that the petitioner is financially viable person. Further more, the petitioner has stated that he is not the owner of gujari shop and working therein, but the petitioner has not produced any evidence to show that the said gujari shop belongs to others.

4. Therefore, upon this preponderance of probability, the family Court has correctly assessed the evidence that the petitioner is a financially stable person. The family Court has also observed that the petitioner has arranged a rent house to his wife and children for Rs.12,000/- per month, but that is not paid by the



petitioner, due to which, electricity connection is disconnected. All these are borne out from the evidence on record. Hence, the family Court has correctly assessed, analyzed and evaluated the evidence on record and rightly come to the conclusion that the petitioner is a financially viable person and he is able to give maintenance at Rs.30,000/- per month to the wife and children and accordingly, granted, which needs no interference.

5. The petitioner-husband is residing in Mysore city. Therefore, for maintaining life in Mysore city, this much amount is minimum required and that is correctly observed by the family Court and accordingly, granted, which needs no interference by this Court. Therefore, the revision petition is liable to be dismissed.

6. Learned counsel for the petitioner-husband has relied upon the judgment of the Hon'ble Apex Court in the case of **Rajnish Vs. Neha**¹ and submitted

¹ AIR 2021 SC 569



that unless both the parties file statement of assets and liabilities, maintenance amount cannot be granted. The Hon'ble Apex Court in the said judgment has stated that filing of statement of assets and liabilities is mode for assessing the financial viability of the husband and wife. Filing of assets and liabilities enables the Court to make right assessment of the amount that the wife is required for maintenance and in what capacity the husband is financially viable. Therefore, just because, in the present case, statement of assets and liabilities is not filed that cannot be a ground to reject the maintenance petition filed by the wife and children.

7. In the present case, the respondents being the wife and children have produced sufficient evidence to prove as to what is the financial status of the petitioner-husband and that is correctly appreciated by the family Court as discussed above. Therefore, the revision petition is liable to be dismissed.



8. Accordingly, the revision petition is
dismissed.

Sd/-
JUDGE

PB
List No.: 1 Sl No.: 18