



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JANUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR

REV.PET FAMILY COURT NO. 184 OF 2019

BETWEEN:

SRI. ASHWATHNARAYANA,
S/O MALLACHANNAIAH,
AGED ABOUT 46 YEARS,
R/O KARISHETTIHATTI,
KASABA HOBLI, GUBBI TALUK - 572 216.

...PETITIONER

(BY SRI. VINOD PRASAD, ADVOCATE)

AND:

1. SMT. SUMITHRA,
W/O ASHWATHNARAYAN,
AGED ABOUT 38 YEARS,
2. KUSUMA,
D/O AHSWATHNARAYAN,
AGED ABOUT 14 YEARS,
MINOR REPRESENTED BY 1ST PETITIONER,

BOTH ARE R/O SANGAPURADA,
GOLLARAHATTI, URDIGERE HOBLI,
TUMAKURU TALUK - 572 216.

...RESPONDENTS

(BY SRI. KALLESHPA K.S, ADVOCATE FOR R1;
R2 IS MINOR REPRESENTED BY R1)





THIS RPFC IS FILED UNDER SECTION 19(4) OF FAMILY COURT ACT, AGAINST THE JUDGMENT DATED 23.03.2019 PASSED IN C.MIS.NO.173/2016 ON THE FILE OF THE PRINCIPAL JUDGE, FAMILY COURT, TUMAKURU, PARTLY ALLOWING THE PETITION FILED UNDER SECTION 125 OF Cr.P.C.

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

ORDER

This revision petition is filed by the husband calling in question the order of maintenance granted in C.Mis.No.173/2016 dated 23.03.2019 passed by the Principal Judge, Family Court at Tumakuru, thereby granting maintenance amount of Rs.8,000/- per month to the respondent No.1 – wife and Rs.5,000/- per month to the respondent No.2 – daughter.

2. The relationship between the petitioner and respondents is not disputed. The petitioner is the husband of respondent No.1 and father of respondent No.2. On certain allegations, the respondents are constrained to live separately and thus, filed maintenance petition under



Section 125 of Cr.P.C. and the Family Court has granted maintenance amount to the respondents as above stated.

3. Learned counsel for the petitioner submitted that the petitioner is physically handicapped person and now, he is not working and not an earning member in the family and living with pension of Rs.800/- per month given by the Government of Karnataka to physically handicapped persons and for his livelihood, he is depending on his brothers. Hence, as he is not earning he finds difficult to maintain the respondents. Therefore, submitted that the quantum of maintenance granted by the Family Court is excessive and prays for modification of the order.

4. On the other hand, learned counsel for the respondents justified the order passed by the Family Court and prays for dismissal of the petition.

5. It is stated that later on, respondents were living with the petitioner and after two years, once again respondents were constrained to live separately. Therefore, the respondents have filed petition for



maintenance under Section 125 of Cr.P.C. seeking for maintenance and the Family Court has granted an amount of Rs.8,000/- per month to the wife and Rs.5,000/- to the child.

6. The petitioner was working as a Peon in a private company and as per Ex.P.4 – salary certificate, the petitioner was earning Rs.17,000/- to Rs.35,000/- per month. It is stated that petitioner has resigned the said job and he has produced Ex.R.2 – Relieving letter to prove that the he has resigned from the job and now, he is unemployed person. It is the duty cast on the petitioner being husband and father of the respondents respectively, to maintain wife and child. Financial inability is not a reason for refusing to maintain wife and child. If wife and child asks maintenance for leading luxurious or lavish life style that could be considered for rejection of the maintenance but what the Family Court has granted maintenance amount is just sufficient for surviving in the society. The Family Court has recorded a finding that if



the respondent had salary of more than Rs.17,000/- as on 2001, as on today, his salary would be more than Rs.35,000/- per month as there will be hike in the salary every year. The petitioner has not given reason for resigning the job. Learned counsel for the petitioner has stated that as the petitioner is handicapped, he was finding difficult to work and hence, he has resigned the job. When there are no reasons for quitting the job and for just quitting the job, the petitioner cannot shirk his responsibility. The maintenance amount granted by the Family Court is meager and very minimum amount to sustain life in the society and it is not found to be excessive one. The Hon'ble Supreme Court in catena of decisions has stated that it is the obligation on part of the husband to look after his wife and children and at any cost, he cannot shirk his responsibility, whatever may be the reasons. Pleading inability of financial status cannot be a reason for refusing to pay the maintenance amount granted by the Family Court. Therefore, considering all the facts and circumstances of the case, the Family Court



is correct in granting the maintenance amount. The petition is devoid of merits calling interference to the order passed by the Family Court. Hence, petition is hereby ***dismissed*** for devoid of merits.

Sd/-
JUDGE

MH/-
List No.: 1 SI No.: 53
CT: BHK