



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF FEBRUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR

REV.PETITION FAMILY COURT NO.26 OF 2014

BETWEEN:

1. SMT. YALLAMMA @ GEETHAMMA
W/O NINGAPPA
AGED ABOUT 32 YEARS,
HOUSE WIFE
R/AT C/O IGURU KENCHAPPA
MAYAKONDA VILLAGE
DAVANAGERE TQ & DISTRICT – 577 002.
2. SRI. DHARSHAN
S/O NINGAPPA
AGED ABOUT 10 YEARS,
3. SRI. VIKAS
S/O NINGAPPA
AGED ABOUT 8 YEARS,

PETITIONERS 2 AND 3 ARE MINORS
REPRESENTED BY THEIR NEXT FRIEND
NATURAL GUARDIAN THEIR MOTHER PETITIONER
NO.2 SMT. YALLAMMA
@ GEETHAMMA
R/AT C/O IGURU KENCHAPPA
MAYAKONDA VILLAGE,
DAVANAGERE TQ & DISTRICT – 577 002.

...PETITIONERS

(BY KUM. GOWTHAMI, AMICUS CURIAE, ADVOCATE)





AND:

1. SRI. NINGAPPA
S/O LATE KODLENNARA MALLAPPA
AGED ABOUT 34 YEARS
R/AT VIDHYANAGAR,
DHEVARAHALLI (NEW VILLAGE),
CHANNAGIRI TQ,
DAVANAGERE DISTRICT – 577 002.

...RESPONDENT

(BY SRI. M VISHWAJITH RAI, ADVOCATE)

THIS RPFC FILED UNDER SEC.19(4) OF THE FAMILY COURTS ACT, AGAINST THE ORDER DATED 13.1.2014 PASSED IN CRL. MISC. NO. 41/ 2012 ON THE FILE OF THE JUDGE, FAMILY COURT, DAVANGERE, PARTLY ALLOWING THE PETITION FILED UNDER SEC.125 OF Cr.P.C.

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

ORDER

This revision petition is filed by the wife and children challenging the order dated 13.01.2014 passed in Crl.Misc.No.41/2012 by the Judge, Family Court, Davanagere, for seeking enhancement of maintenance amount.

2. The relationship between petitioner No.1 and respondent as wife and husband is not disputed. On certain allegations that the respondent has ill-treated



petitioner No.1-wife by consuming alcohol and thus, petitioner No.1 along with children were forced to live separately. Therefore, for maintenance, the petitioners have filed the petition under Section 125 of Cr.P.C., and the Family Court has granted maintenance amount of Rs.500/- per month to petitioner No.1-wife and Rs.200/- per month each to petitioner Nos.2 and 3-children respectively. Being inadequate of maintenance amount, the present petition is filed by the wife and children.

3. Petitioner No.1 being woman and petitioner Nos.2 and 3 being minor sons are entitled for free legal aid as per Section 13 of the Legal Services Authority Act. Hence, Kum.Gowthami, learned counsel is appointed as Amicus Curiae on behalf of petitioners being wife and children.

4. Learned Amicus Curiae submitted that the quantum of maintenance amount granted by the Family Court is very meagre and even it is not sufficient to have a



cup of tea daily. Therefore, prays for enhancement of maintenance amount.

5. On the other hand, learned counsel for the respondent justified the order of maintenance granted by the Family Court.

6. When it is admitted that the petitioners are wife and children of the respondent. It is duty bound and obligation on the part of the respondent to maintain his wife and children. The Family Court has granted very meagre amount of maintenance. Even the said maintenance amount is not sufficient to have a cup of tea everyday. The said insufficient maintenance is granted by the Family Court without application of mind. Ex.P.2 –Tax assessment register extract proves that the father of the respondent is the owner of house. It is admitted that the respondent is the only son to his parents. The respondent is the owner of five acres of land and by agricultural income, the respondent is receiving income. Ex.P.3 and



Ex.P.4 are RTC extract, which is standing in the name of maternal aunt of the respondent. It is stated that the agricultural lands are still the joint family property and if the parents and respondent are given share, then the respondent would also get share in the said property.

7. Therefore, considering all these evidence on record and appreciating the evidence on all its preponderance of probability, the petitioners are entitled for enhancement of maintenance amount. Even by doing labour work, the respondent has to maintain his wife and children. In this regard, I place reliance on the judgments of the Hon'ble Supreme Court in the cases of **Rajnish Vs. Neha**¹ and **Chaturbhuj Vs. Sita Bai**². When it is proved that the respondent is also having agricultural income, but at the same time, wife and children are not having any income and they are destituted, therefore, they are entitled for minimum adequate maintenance.

¹ AIR 2021 SC 569

² (2008) 2 SCC 316



8. Therefore, it is just and proper to award maintenance amount of Rs.5,000/- to petitioner No.1-wife by the respondent every month without fail till her lifetime or she re-marries and Rs.2,000/- per month to each petitioner Nos.2 and 3 from the date of petition till they attain the age of majority. Therefore, the petition filed by the petitioners is liable to be allowed in part.

9. Accordingly, I proceed to pass the following

ORDER

- i. The petition is ***allowed in part.***
- ii. The impugned order dated 13.01.2014 passed in Crl.Misc.No.41/2012 by the Judge, Family Court, Davanagere, is modified.
- iii. Petitioner No.1-wife is entitled to enhanced maintenance amount of Rs.5,000/- p.m., to be payable by the respondent-husband without fail till her lifetime or she re-marries and Rs.2,000/-



p.m., to each petitioner Nos.2 and 3 from the date of petition till they attain the age of majority.

- iv. No order as to costs.
- v. The learned Amicus Curiae assisted the Court in well manner, so that the Court is able to come to a right conclusion and services rendered by her are placed on record. Therefore, the Secretary, High Court Legal Services Committee is directed to pay a professional fee to the learned Amicus Curiae – Kum.Gowthami as per rules.
- vi. Registry is directed to transmit the TCR along with copy of this order to the concerned Court.

Sd/-
JUDGE