



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 26<sup>TH</sup> DAY OF FEBRUARY, 2024**

**BEFORE**

**THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI**

**REV.PET FAMILY COURT NO. 161 OF 2020**

**BETWEEN:**

D SUKUMAR  
S/O LATE DASEGOWDA  
AGED ABOUT 52 YEARS  
R/O NO. 129 HEGGADADEVANAPURA VILLAGE  
DASANAPURA HOBLI, UTTARA TALUK  
BENGALURU 562162

ALSO R/AT  
NO.94, TIGALARAPALYA MAIN ROAD,  
BEHIND K. G VIDYAMANDIRA  
BALAJI NAGAR, PEENYA 2ND STAGE  
BENGALURU- 560058

ALSO R/AT  
NO.107, HEGGADADEVANAPURA VILLAGE  
DASANAPURA HOBLI, UTTARA TALUK  
BENGALURU-562162

...PETITIONER

(BY SRI. MUNISWAMY GOWDA H.,ADVOCATE)

**AND:**

R GAYATHRI @ GAYATHRI DEVI.R.  
W/O D SUKUMAR  
D/O SANNAMARIGOWDA  
AGED ABOUT 42 YEARS  
R/AT NO.34, 64/65  
VEERANAGERE LASKAR MOHALLA  
MYSURU.- 570001

...RESPONDENT





(BY SRI.R.D. PONCHOM.,ADVOCATE)

THIS RPFC IS FILED UNDER SEC.19(4) OF THE FAMILY COURTS ACT. 1984 AGAINST THE ORDER DATED 11.06.2020 PASSED IN C.MISC.NO.721/2018 ON THE FILE OF THE II ADDL.PRL.JUDGE, FAMILY COURT AT MYSURU PARTLY ALLOWING THE PETITION FILED UNDER SEC.125 OF CR.P.C. FOR MAINTENANCE.

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

### **ORDER**

Aggrieved by the order passed in C.Mis.No.721/2018, dated 11.06.2020, by the II Additional Principal Family Court at Mysuru, whereby the court below had granted maintenance of an amount Rs.15,000/- p.m., to the respondent herein who is the wife, the petitioner-husband has filed the present revision petition.

2. The respondent has filed the petition seeking maintenance of an amount of Rs.13,000/- p.m. It is her case that she is the legally wedded wife of the petitioner herein and their marriage was solemnized on 30.04.1997 and out of wedlock they are blessed with one boy, who is aged twenty years as on the date of the filing of the



petition. The petitioner-husband was running a provision store at the time of the marriage and the respondent used to work at a private garment factory at Bengaluru. As the petitioner was harassing the respondent physically and mentally, she gave a complaint and police have filed the charge-sheet in C.C.No.8431/2003. Thereafter the petitioner herein has disappeared by vacating the residence and having no other option the wife has settled at her parents place at Mysuru. The petitioner has contracted second marriage with one Kalpana and also gave birth to a girl. The respondent - first wife on several occasions tried to contact the petitioner, to lead married life with him but he intentionally avoided cohabitation with her. The wife is depending upon her parents and she is also unemployed and she has filed a petition seeking maintenance. It is her case that the respondent is getting a huge rental income of Rs.50,000/- p.m., from the property owned by him.



3. The petitioner herein has filed his objections admitting the marriage, about the complaint and also his second marriage. Because of the conduct of the first wife as she is used to tease him that he is an uneducated fool and it is also alleged that she is having illegal intimacy with some other person and on his instigation she has been filing false cases against the petitioner. It is the case of the husband that his son is working in HAL Company and earning an amount of Rs.35,000/- p.m., and the wife is working in a Garment factory and earning Rs.20,000/- p.m. It is also his case that he is suffering from various diseases and also has to take care of the his old age parents and he has also availed loan of Rs.15,00,000/- and he is not in a position to pay the maintenance.

4. The court below considering the facts had held that the husband has made false allegations against the wife and no evidence is produced by the husband to establish the allegation against the wife. The court below also observed that contracting of second marriage by the



respondent with one Kalpana itself amounts to neglecting the wife. The respondent-wife has produced 18 RTC extracts which is marked as Exhibit - P5, and also the certified copy of the sale deeds which are marked as Exhibits-P6 and P7. The husband has purchased two sites one in the year 2002 and other in the year 2012 respectively. Exhibit-P8 is the gift deed executed by the petitioner in the name of his second wife.

5. The court below considering the admission of the husband with regard to immovable properties which are standing in the name of his father, observed that it is not the case of the husband that the immovable properties are joint family properties. The court below also observed that the petitioner has failed to prove that neither the respondent nor the son are working. Further, the petitioner has also deposed that he is in a position to take care of the second wife and daughter. Considering all these the court below has come to the conclusion that the respondent has purposefully neglected the petitioner,



though he is duty bound to maintain her. He has deposed before the Court without any hesitation that he contracted second marriage without obtaining divorce from the first wife. This being the conduct of the petitioner, the respondent is entitled for maintenance. Considering all these facts, the court below has granted an amount of Rs.15,000/- per month.

6. Aggrieved thereby the husband is before this Court. Learned counsel appearing for the husband submits that he is not in a position to take care of himself. There is no source of income, he do not dispute the fact that in the year 2021, he has executed a Gift Deed in respect of extent of 600 sq.feet of property in Yeshwanthpura, where the court below has observed that he his getting rental income of an amount of Rs.50,000/- from the said property. He submits that the Gift Deed has been obtained by undue influence. As such, he has filed a suit for a cancellation of the said Gift Deed in the year 2024. He submits that the second wife has sold the property in the



year 2023 in favour of the third party. He is physically not in a position to work and maintain himself. As such, he has filed a petition seeking maintenance against his son i.e., son of the first wife and even the first wife has also filed a suit for cancellation of the gift deed and the same is pending consideration. It is submitted that earlier as the petitioner was not in a position to pay the amount he was sent to prison. It is submitted that the maintenance that was awarded by the court below is not correct.

7. Learned counsel appearing for the respondents submits that the court below considering the evidence on record, had rightly granted the compensation. He submits that at the time of passing of the order the property was standing in the name of the husband and the Court below has observed that it is fetching amount an amount of Rs.50,000/- as rent. Conveniently, he has executed a gift deed in favour of the second wife in the year 2021 and in turn she sold away the property in the year 2022 and he conveniently files a suit in the year 2024. He submits that



all this exercise has been done to avoid paying maintenance to the wife. He submits that the petitioner-husband has no respect towards the court and its proceedings and in fact the conduct of the petitioner submitting before the court that without even getting a divorce from the first wife, he married second wife and also during the pendency of the petition selling away the properties only with an intention to see that she will not get any amounts and in that purpose of achieving his goal he has been indulging in one thing or the other.

8. Having heard the learned counsel on either side, perused the entire material on record. As on the date the order is passed by the court below granting interim maintenance at Rs.15,000/- p.m., a property at Yeshwanthpur was standing in the name of the petitioner-husband. The court below observed that the petitioner was getting an amount of Rs.50,000/- towards rent. Thereafter he had executed a gift deed in the second wife's name in the year 2021 and she sold it in the year 2022 and he filed





a suit in the year 2024. This petition is filed in the year 2018. All these transactions that have taken place clearly shows that only with a sole intent of depriving the wife from having maintenance the petitioner-husband has gifted the property to second wife.

9. As submitted by the learned counsel for the respondent and as observed by this court in the preceding paragraphs, the conduct of the petitioner / husband assumes significance. During the subsistence of his marriage he contracted a second marriage and when the first wife files an application for maintenance and during the pendency of the maintenance petition, he execute a gift deed and in turn the second wife sold the property and thereafter he files a suit against the wife. This conduct of the petitioner speaks volumes about the manner in which he is trying to evade the payment of maintenance to wife. It is so unfortunate that he is not even taking care of his wife and son and in turn he files a petition seeking maintenance against the son. Courts cannot come to the



rescue of the persons like the petitioner and this Court is of the view that the court below had analyzed the evidence on record in its proper perspective and has granted the maintenance at Rs.15,000/- per month. Hence, this court finds no reasons to interfere. Accordingly, the revision petition is **Dismissed**.

**SD/-  
JUDGE**

JJ  
List No.: 1 Sl No.: 30