



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF FEBRUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR

REV. PETITION FAMILY COURT NO. 72 OF 2019

BETWEEN:

ANIL KUMAR.K.M,
S/O LATE CHANNABASAVIAIAH,
AGED ABOUT 40 YEARS
R/AT SHIVAGANGA, 3RD A CROSS,
1ST MAIN, HANUMANTHAPURA,
TUMKURU - 562 102.

THIS IS PRESENT ADDRESS
ANIL KUMAR.K.M,
S/O LATE CHANNABASAVIAIAH,
AGED ABOUT 40 YEAR S
C/O SHYAMALA, 4TH MAIN,
H V R LAYOUT, MAGADI MAIN ROAD,
BENGALURU - 560 079

...PETITIONER



(BY SRI. PRAMOD R, ADVOCATE)

AND:

1. SHRUTHI. R
W/O ANIL KUMAR K M
AGED ABOUT 33 YEARS
2. MANASVI K M
D/O ANIL KUMAR K M
AGED ABOUT 7 YEARS MINOR
REPRESENTED BY HER
NATURAL GUARDIAN



BOTH ARE R/O NEAR CIT GIRLS
HOSTEL, BATAWADI,
TUMKURU - 562 102

...RESPONDENTS

(BY SRI. KANTHARAJU N K, ADVOCATE FOR R1 AND R2;
R2 IS MINOR REP BY R1)

THIS RPFC IS FILED UNDER SEC.19[4] OF FAMILY COURT ACT.1955 AGAINST THE JUDGMENT AND DECREE DATED 11.03.2019 PASSED IN C.MISC.NO.63/2017 ON THE FILE OF THE PRL. JUDGE, FAMILY COURT, TUMAKURU 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

This petition is filed by the petitioner-husband questioning grant of maintenance amount of Rs.15,000/- p.m., to respondent No.1-wife and Rs.8,000/- to respondent No.2-daughter.

2. Heard the arguments from both sides and perused the records.



3. The relationship between the petitioner and respondents are not in dispute. The petitioner is the husband of respondent No.1-wife and father of respondent No.2-daughter. Considering the fact that the petitioner is an Assistant Executive Engineer in KPTCL, the Family Court has granted maintenance amount of Rs.15,000/- per month to respondent No.1-wife and Rs.8,000/- per month to respondent No.2- daughter.

4. On certain allegations of cruelty and ill- treatment against the petitioner-husband, respondent No.1-wife was constrained to live separately from the petitioner-husband along with respondent No.2-minor daughter. Ex.P.3 is the salary certificate, which proves that as on the year 2016, the petitioner was earning salary of Rs.74,000/- per month.

5. Learned counsel for the petitioner-husband submitted that respondent No.1-wife is working as a clerk



in the bank and was earning Rs.12,000/- per month. Therefore, she is capable of earning, hence, she is not entitled to claim maintenance. Therefore, prays to allow the petition insofar as respondent No.1-wife is concerned.

6. Learned counsel for the petitioner-husband does not wish to contest the maintenance granted to petitioner No.2-minor daughter.

7. The respondents who are wife and minor daughter are living separately from the petitioner-husband and respondents are living independently, but not in the house of her parents. Therefore, respondent No.1-wife is under obligation to nurture respondent No.2-daughter by providing education, food and medicine etc., and also for maintaining herself has compelled her to work. Accordingly, she may be working in the bank as a clerk and may be receiving salary of Rs.12,000/- per month and



the said job working by respondent No.1-wife is temporary in nature.

8. As discussed above, respondent No.1-wife was constrained to do job in the bank and may be earning Rs.12,000/- p.m., because this is inevitable for her to live in the society with dignity and also to fulfill her responsibility towards her minor daughter. Therefore, these compelling circumstances making wife to earn as above stated cannot be said that she is capable to earn herself. To satisfy hungry of stomach, the wife and daughter cannot wait till decree is passed by the Court or the daughter cannot wait for medicine and education till decree is passed for maintenance. Therefore, when wife is constrained to do some work for earning basic livelihood amenities, as in the present case the wife is working on temporary basis in the bank cannot be said that the wife is an earning person to maintain herself and also it is not the ground to shirk the responsibility on the part of the



petitioner-husband to maintain wife and child. Admittedly, the petitioner-husband is an Assistant Executive Engineer working in KPTCL and as per Ex.P.3- salary certificate, it is proved that for the year 2016 in a month, the petitioner was earning salary of Rs.74,000/- per month and now the petitioner may be drawing salary nearly Rs.1,10,000/- per month.

9. Therefore, the Family Court is correct in holding that the petitioner-husband is a financially viable person. Even though, the Family Court has observed that after deduction, his take home salary is Rs.50,000/- per month. The only amount can be deducted while considering the quantum of maintenance is income tax and professional tax. Whatever may be the deductions like interest/loan raised on car, or loan raised for construction of house or LIC or any other purposes that cannot be deducted towards making assessment of quantum of maintenance,



because these loans are ultimately beneficial to the husband.

10. Therefore, the Family Court is correct in holding that the petitioner-husband is a financially viable person. Hence, there are no good grounds available to reduce the quantum of maintenance granted by the Family Court. Therefore, the appeal filed by the petitioner-husband is liable to be dismissed.

Accordingly, the appeal is ***dismissed*** with cost of Rs.25,000/- payable to the respondents.

**Sd/-
JUDGE**

PB
List No.: 1 Sl No.: 16