

IN THE COURT OF THE JUDGE, FAMILY COURT,  
BHUBANESWAR.

Present : Shri Pravakar Mishra, OSJS(SB),  
Judge, Family Court, Bhubaneswar.

Civil Proceeding No. 242 of 2013

Smt. Rubinna Malla, aged about 23 years,  
W/o- Sri Arun Kumar Malla,  
D/o-Laxmidhar Guru,  
Vill.-Kuruja, P.O.-Jaleswarpara, P.S.-Kakatpur,  
Dist-Puri.  
At present residing at Plot No. 488,  
Chakeisiani, P.S.-Mancheswar, Bhubaneswar,  
Dist-Khurda.

... Petitioner

... Versus...

Sri Arun Kumar Malla, aged about 31 years,  
S/o-Late Jatadhari Malla,  
Vill.-Banbarada, P.O.-Jaleswarpara,  
P.S.-Kakatpur, Dist-Puri,  
Odisha.

... Respondent

Date of Argument : 03.09.2015

Date of Judgment: 04.09.2015

J U D G M E N T

The petitioner-wife has filed a petition U/s. 18 of the Hindu Adoption and Maintenance Act, 1956 (in short, the Act 1956) read with Section 8 and 9 of the Family Courts Act claiming monthly maintenance of Rs. 10,000/- from the respondent-husband.

2. The facts of the case of the petitioner are as follows:-

The marriage of the petitioner with respondent was solemnized as per Hindu Custom and rites on 20.06.2010 and out of their wedlock one female child namely Ridhima Mall was born. According to petitioner, her father had given cash of Rs. 1,20,000/- and other household articles amounting Rs.

2,50,000/- at the time of marriage as per demand of the respondent and his family members. It is alleged by the petitioner that after six month of marriage, the respondent and his family members forced her to bring additional demand of Rs. 50,000/- for construction of their new house and when she showed her inability to fulfill the same, she was subjected to torture both physically and mentally by the respondent and his family members. The respondent has also threatened to kill her and go for second marriage if she would not fulfill his demand. It is further alleged by the petitioner that on 13.04.2013 at about 12 P.M. the respondent and his family members tried to kill her by dousing kerosine on her but she was narrowly escaped and locked herself in her room and called her father over phone. Her family members came and took her to her parental home. Thereafter several attempts have been made from her side to settle the disputes between them but all were in vain. Finding no alternative she has lodged an FIR before Kakatpur Police Station on 15.04.2013 vide P.S. Case No.54 of 2013 against the respondent and his family members but the police did not take any action against them. The respondent since the date of desertion has not been providing any farthing to them. According to her, she is merely a house wife and having no source of income and she is unable to maintain herself and to bear the expenses of her minor daughter. The respondent is a Civil Contractor and also a rich man besides, having five acres of landed property. Since the respondent having sufficient means will-fully neglected and refused to maintain them, who are his legally wedded wife and daughter, the petitioner is obliged to file the present petition claiming a monthly maintenance of Rs.10,000/- for both of them from the respondent.

3. The respondent did not enter contest the proceeding and therefore, is set ex-parte.

The following points are formulated to resolve the controversy:-

- (i) Whether petitioner is the legally married wife and Ridhima Malla is the legitimate daughter of the respondent and the petitioner has sufficient cause to live separately from the respondent?

(ii) Whether the respondent having sufficient means has neglected or refused to maintain the petitioner and her minor daughter and the petitioner have no independent source of income?

(iii) What would be the quantum of maintenance to be allowed to the petitioners, if point No. 1 and 2 are answered in their favour?

4. The petitioner in order to prove her case she, herself, has been examined P.W. 1 and did not chose to file any document on her behalf.

5. The petitioner while being examined as P.W. 1 has stated that she married to the respondent on 20.06.2010 and out of their wedlock a female child namely Ridhima Malla was born. Her aforesaid statements have not been challenged. Thus, it can safely be concluded that the petitioner is the legally wedded wife of the respondent and Ridhima Malla is the legitimate daughter of the respondent.

6. She has also stated that she was subjected to torture not only by the respondent but also by her in-laws due to additional demand of dowry of Rs. 50,000/- and on 13.04.2013 at about 12 P.M. the respondent and his family members tried to kill her by dousing kerosine on her but she narrowly escaped and locked herself in her room and called her father over phone and her family members came and took her to her parental home. Therefore, it can safely be concluded that the petitioner has sufficient cause to live separately from the company of the respondent. Being the husband it is his foremost duty to maintain his legally married wife and daughter. From the evidence of the P.W. 1 it is forthcoming that she is merely a house wife and as such she has no sufficient means to support herself and her minor daughter.

7. The next question for consideration is, whether the respondent has sufficient means and he has willfully neglected and refused to maintain the petitioners. It is stated categorically by the petitioner in her affidavit evidence that the respondent is a Civil Contractor and also rich man besides, he has five acres of landed property. The petitioner has also stated in her evidence that since the date of living separately from the respondent, the latter has not provided a single farthing to them for their maintenance. Thus, from the

aforesaid statement of the petitioner, it is established that the respondent having sufficient means willfully neglected and refused to maintain the petitioner and her minor daughter, who have no sufficient means to support themselves. Therefore, the respondent is liable to provide maintenance to the petitioners.

8. The next question for consideration is the quantum of maintenance. Considering the cost of living and other attendant circumstances, in as much as, the income of the respondent and claim of the petitioner, I feel in the ends of justice and equity, a sum of Rs. 6,000/- per month to the petitioner and Rs.2,000/- to the minor daughter namely Ridhima Malla would be just and proper, which according to me, would not allow the petitioner to lead a princely and luxury life and also at the same time it would not put the respondent to any vagrancy. Hence ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioner. The respondent is directed to pay a monthly maintenance of Rs. 6,000/- to the petitioner and Rs. 2,000/- to the minor daughter namely Ridhima Malla from the date of filing of application i.e. from 15.05.2013. The respondent is further directed to clear up the arrear maintenance within two months hereinafter. He is also directed to pay the current monthly maintenance within the 1<sup>st</sup> week of the succeeding month. Besides that the respondent is also directed to pay litigation expenses of Rs. 3,000/- to the petitioner. Failure to carry out the order by the respondent, the petitioners is at liberty to levy execution through due process of law.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 4<sup>th</sup> day of September, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioners:

P.W.1 Smt. Rubinna Malla

Witnesses examined for the respondent:

None

List of documents by petitioners:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.