

I.A. No.42/2013

(Arising out of C.P. 147/2013)

26.07.2014

The petitioner No.1-wife has filed application with prayer to grant interim maintenance for herself and petitioner No.2, 3 and 4 (minor daughters) to the tune of Rs. 20,000/- per month from the Opp. Party-husband. The petitioner No. 1 has filed the original application under Sec. 18 and 20 of Hindu Adoption and Maintenance Act, 1956. The Opp. Party has filed written objection on the interim application.

2. It is the case of the petitioners that petitioner No.1 married to the Opp. Party according to Hindu rites and customs at Krushi Vihar Colony, on 07.03.2004. It is averred that at the time of marriage, her father had given all demand and fulfilled all requirements of the Opp. Party and after marriage they led a happy conjugal life at her matrimonial home. It is further averred that the Opp. Party used to return home at late night in drunken condition and picked up quarrel with her and after birth of petitioner No. 3 and 4 the Opp. Party and his family members had driven out petitioner No.1 from his house. Finding no alternative petitioner No.1 along with other petitioners took shelter of her parents and since then she has been residing in her parental home with petitioner No.2, 3 and 4. She has further averred that she has no means of income and her father is unable to maintain her and as well as the petitioner No.2, 3 and 4 and it is not possible on her part to provide proper education to petitioner No. 2, 3 and 4.

3. The Opp. Party in his objection has admitted his marriage with the petitioner No.1. The Opp. Party has averred that it is a dowry less marriage. He has denied the allegations of any torture by him and his family members after birth of petitioner No. 3 and 4. The Opp. Party has further averred that the petitioner No. 1 is an adamant and arrogant lady

who always tortured him and she frequently left the house without informing them and she always preferred to stay with her parents. He has further stated that the petitioner No. 1 has voluntarily left the house and they have not driven out the petitioners. He has further averred that he is ready to maintain the petitioner No.1 and to provide educational expenses of minor children if the petitioners will live with him. He has stated that he has no income and is unable to pay any maintenance to the petitioners.

4. It is an admitted fact that the petitioner No.1 is the legally married wife and petitioner No. 2, 3 and 4 are their children. It is also an admitted fact that all the petitioners are residing in the house of the father of the petitioner No.1. It is also an admitted fact that the Opp. Party is not providing any maintenance to them. Petitioner No.1 has averred that the Opp. Party and his family members without any reasonable cause had driven out her from their house. The Opp. Party has denied it. According to the Opp. Party the petitioner No.1 has voluntarily left him. A married lady having three minor children is not excepted to desert her husband unless there is any reprehensive attitude of the Opp. Party. Be that as it may, this question will be decided at the time of final decision. Wife and children are entitled as of right to be maintained by the husband/father, either they remain with him or away from him, when it is proved that the wife has no sufficient means to support herself and her children. She has further stated that she has no means of income. The Opp. Party did not speak a single word about the income of the petitioner No.1. So it is clear that the petitioner No. 1 has no independent source of income and is depending upon her parents and she will unable to provide proper education to petitioner No. 2,3 and 4 unless financial assistance is provided by the Opp. Party.

5. The petitioner No. 1 has stated that the Opp. Party has got a betel/stationary shop and is getting Rs. 20,000/- per month and also having some income from land business. Apart from that the Opp. Party earns Rs. 30,000/- per month from agricultural source. The Opp. Party

having sufficient means has neglected to maintain them. The Opp. Party in his objection has stated that he is ready to maintain all the petitioners if they will stay with him. From such admitted averments of the Opp. Party, it is clearly established that he has sufficient means of income to maintain the petitioners. Law prevents the vagrancy and destitution of the neglected wife and children. It is pious obligation of the Opp. Party to maintain his wife and children. As such, the petition for interim maintenance filed by the petitioner is allowed. Hence, ordered:

O R D E R

The interim application is allowed in favour of the petitioners. The Opp. Party is directed to pay Rs. 2,500/- to petitioner No. 1 and Rs. 500/- each to petitioner No. 2, 3 and 4 only per month from the date of interim application i.e. 25.03.2013. The Opp. Party is further directed to pay the current monthly interim maintenance to the petitioners within first week of each succeeding month. He is further directed to pay the arrear maintenance dues to the petitioners within two months from the date of this order. Any deviation in payment of maintenance dues, the petitioners are at liberty to realise the same through process of law.

Dictated and corrected by me

Judge, Family Court,
Bhubaneswar.

