

In

The court of Principal Judge, Family Court, Jamui.

Present:- Om Prakash Singh,

Principal Judge, Family Court, Jamui.

Maintenance Case No.48M/2020

Jamui, dated the 22nd of September 2022.

1. Karmi Devi W/o Shankar Paswan
2. Lovely Kumari D/o – Shankar Paswan
3. Ajay Paswan S/o – Shankar Paswan
4. Vijay Paswan S/o – Shankar Paswan

All R/o.-Village – Nauadih, P.O. - Rabaiy, P.S. - Sikandra, Distt – Jamui.

.....Petitioner/Applicant.

Versus

Shankar Paswan S/o- Late Ram Prasad Paswan

R/o.-Village- Nauadih, P.O. - Nauadih, P.S- Sikandra, Distt – Jamui.

At Present: - Halsi Chowk, P.S. - Halsi, Distt: - Lakhisarai.

..... O.P

Reference- U/s- 125 Cr.P.C.

On behalf of the Applicant- Sri Shakti Lal Sharma, Ld. Advocate.

On behalf of the O.P- , Ld. Advocate.

J U D G M E N T

1. This application has been filed by the applicant against O.P. and claimed 10,000/- Rs. per month as maintenance.

2. The applicant has stated that her marriage was solemnized with O.P in the year 2001 according to Hindu Rites and Usages at village Nauadih, P.S. - Sikandra, Distt: - Jamui. She started her matrimonial life with O.P. and she got three children namely Lovely Kumari aged about 16 years, Ajay Paswan aged about 14 years and Vijay Paswan aged about 10 years from wedlock. Further applicant has stated that in year 2009 O.P. developed extra marital relation with Sangeeta Devi when applicant objected that relation then O.P. subjected her and her children physical cruelty and violence. The applicant and

her brother try to solve the dispute but they could not be succeeded rather O.P. ousted applicant with her children from the house and applicant has taken shelter at her parental house. She has no any independent source of income to maintain herself and her children while O.P. has 4 Bigha Agricultural land and earns 5 Lakh rupees annually by the agriculture produce. He also runs beauty parlour at Halsi Chowk, P.S. - Halsi, Distt: - Lakhisarai and earns 50,000/- Rs. per month.

3. Ex-party proceeding has been started against the O.P. vide order dated 08-02-2021. The court has confirmed the service of the summon against the O.P. From perusal of the record it appears that the O.P. has himself received the summon. In spite of this fact he has not appeared in this case nor participated in the proceedings.

4. **Point for determination:-**

- (I) Whether this court has jurisdiction to adjudicate this case.
- (II) Whether the applicant is legally wedded wife and has three children from wedlock and she and children are entitled to get maintenance from O.P.

FINDINGS

5. The applicant has adduced altogether three witnesses in support of her claim ie.-

Pw.1 Karmi Devi- Who is applicant herself.

Pw.2- Dharmendra Paswan - Who claimed to be brother of the applicant.

Pw.3- Lovely Kumari- Who is daughter of applicant and O.P.

O.P. has not appeared in this case. Therefore no oral or documentary evidence is on behalf of the O.P. Consideration.

6. **Issue No.I-** This court has territorial jurisdiction to adjudicate this case because the marriage of applicant and O.P. solemnized at village Nauadih, P.S. - Sikandra, Distt: - Jamui. At present time applicant is living with her parents at Nauadih, P.S. - Sikandra, Distt: - Jamui.

7. **Issue No. (II) -** The applicant has stated that her marriage was solemnized with O.P. in year 2001 and she got three children namely Lovely Kumari, Ajay Paswan and Vijay Paswan from wedlock. This fact has got support from the evidence of P.W. 01, P.W. 02 and P.W. 03. They are consistent on this fact. So far concerned the O.P. that he has not deliberately appeared in this case and participated in the proceeding while he had full knowledge about the case.

Further case of the applicant is that O.P. has extra marital relation with a woman namely Sangeeta Kumari and he subjected her and her children physical cruelty and violence when they objected that relation. This fact also got support from the evidence of P.W. 01, P.W. 02 and P.W. 03. At present applicant is living with her parents with their children because O.P. ousted her from the house. This fact got also support from the evidence of the P.W. 01, P.W. 02 and P.W. 03. Further applicant has stated that she has no independent source to maintain her and her children while O.P. has 4 Bigha agricultural land and business of Beauty Parlour. His annual income is handsome more than 5 Lacs. This fact also got support from the evidence of P.W. 01, P.W. 02 and P.W. 03 there is no contrary evidence available on the record which may denied the statements of the applicant supported with the evidence. As above discussed defendant has deliberately not appeared and participated in the proceeding of this case. Therefore presumption of truthfulness goes in favour of the applicant. She is wife of the O.P. and have children from the wedlock and living at her parental house without any independent source of income. In this circumstances the O.P. is bound to maintain his wife and her children. Therefore, this maintainance application is likely to be allowed.

8. It is therefore,

ORDERED

That this case be and the same is allowed on Ex-parte. It is also ordered to O.P. to pay the maintenance allowance Rs. 3000/- (Six thousand) per month to the applicant and 1000/- each for the applicant's children namely Lovely Kumari, Ajay Paswan and Vijay Paswan, since the date of order of this maintenance petition. O.P. is further ordered that he will pay the current maintenance allowance before 10th day of each and every succeeding month. If O.P. fails then the applicant is entitle to adopt legal process for realization of the dues amount.

Dictated & corrected by me.

Principal Judge, Family Court,
Jamui.

Dated: 22.09.2022

Principal Judge, Family Court,
Jamui.

Dated:22.09.2022