

THE COURT OF THE PRL CIVIL JUDGE, AND JUDICIAL

MAGISTRATE FIRST CLASS AT HONNALI.

PRESENT : Smt. Archana K. Unnithan B.E; LL.B
Prl. Civil Judge and JMFC. Honnali.

Crl. Mis No. 11/2021

dated this day of 21st April 2021.

PETITIONERS		RESPONDENT
<p>1. Smt. Pinki M.S. @ Pinki Chouhan W/o Megharajappa Sangaplala @ S. Megharajappa D/B.L. Chouhan Babulal, aged about 26 years, house wife,</p> <p>2. Kum. Poorvi M.S. D/o Megharajappa Sangaplala, @ S. Megharajappa, aged about 5 years</p> <p>Petitioner no.2 is Minor, represented by its natural guardian mother Smt. Pinki M.S.</p> <p>Both are R/o Beher Mal, Naik Vihar, Jors Good district, Odissa state – 758203.</p> <p>Present R/o Dodderahalli village, Honnali taluk, Davangere district.</p>	V/s	<p>Sri. Megharajappa Sangaplala @ S. Megharajappa, aged about 40 years, agriculturist and Boiler operator technician, R/o Dodderahalli village, Honnali taluk, Davangere district.</p>

ORDERS ON APPLICATION FILED FOR INTERIM

MAINTENANCE AND IA NO.2.

The petitioners have filed IA No.1 seeking to pass an order on interim maintenance of Rs. 20,000/- p.m on behalf of both the petitioner and IA No.2 seeking relief of Rs. 10,000/- towards rental expenses.

2. On the grounds that, they have no means to maintain themselves. It is the petition that, she is legally wedded wife of 1st respondent who is having sufficient means of earning from Mandakki and rice business. It is also contended that, the respondent No.1 is working as boiler operator and technician in various company drawing a salary of Rs.70,000/- to 80,000/- further it is averred that, he has income from agricultural properties of about 8 to 10 lakhs per year.

3. It is the case of the petitioner that, she is not highly qualified nor has any knowledge of self employment. It is case of the petitioner that, she has left her child in the care of her parents residing in Odissa State. Further she has produced her discharge summary from Shivamogga Hospital to show that, she is highly anemic and not capable of making her living.

4. The petitioner contend that, the respondent has deserted her and she is in incapable of maintaining to her self and her child. Hence, prayed to allow the application

5. Though notice was served on respondent. Respondent has not turned up to deny averment of the plaint. Nor challenge the contention made in the plaint.

6. Heard petitioner sides, perused the materials on record.

7. The following points arise for my consideration.

1. *Whether the petitioners are entitled for interim maintenance of Rs. 20000/- p.m?*
2. *Whether IA No. 2 deserves to be allowed?*
3. *What order?*

7. My findings to the above points are as follows:

Point no.1 : In the partly affirmative

Point no.2: In the Negative.

Point No.3 : as per the final order for the foregoing :

REASONS

8. **POINT NO.1 and 2:** The relationship between the parties are not disputed. It is not in dispute that, petitioner is living separately from 1st respondent. However the petitioner

has not produced any document to show that, the 1st respondent has sufficient means of income to pay the interim maintenance as prayed for.

9. While considering the application for interim maintenance strict proof is not necessary. However, the court must keep in mind whether the respondent is capable to pay interim maintenance and whether the petitioners are having sufficient income to maintain themselves are to be taken into consideration.

10. It is not the case of the 1st respondent that, 1st petitioner is gainfully employed, having independent means of income. So, in absence of specific contention, it can be easily gathered that, the petitioners are not having source to maintain themselves. The 1st respondent has not denied that contention of the 1st petitioner that, he is income from rents and other business. It is settled position of law that, every husband is cast with the duty of maintaining his family, who are unable to maintain themselves. In the light of the settled position keeping the medical expenses and other basic amenities of the petitioners at a higher pedestal this court is of the opinion that, it is just and necessary to award interim maintenance of Rs.1,000/- for medical expenses of the 1st petitioner and Rs.2,000/- for the maintenance of 2nd

petitioner. Further, no piece of document is placed on record to show that the petitioner is staying in rental house as claimed in IA No. 2. Hence, this court proceeds to answer **Point no.1 partly in affirmative and Point No. 2 in the Negative.**

11. Point No.3: for the foregoing reasons this court proceeds to pass the following:

// ORDER //

The application filed by the petitioners for interim maintenance is partly allowed.

The 1st respondent is directed to pay interim maintenance of Rs.3,000/- per month to the petitioners till final disposal.

(Directly dictated to the stenographer on computer, then corrected and pronounced by me. In the open court this 21st day of April 2021)

Pr. CJ & JMFC., Honnali.

(order pronounced in the open court, vide separate order)

// order //

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The 1st respondent is directed to pay interim maintenance of Rs.3,000/- per month to the petitioners till final disposal.

Prl. CJ & JMFC., Honnali.

