

IN THE COURT OF THE CIVIL JUDGE &
J.M.F.C,DANDELI
PRESENT
Smt.Rohini D Basapur
B.A, LL.M
CIVIL JUDGE & JMFC, DANDELI
Cri.Mis.No.95/2019

Dated this the 23rd day of MARCH-2023

PETITIONER/S: Smt.Laxmibai W/o Siddanna Ajanal
Age: 64 years, Occ: Household
R/o: LIG No.47, Behind Bus stand,
KPC colony, Dandeli.

[Represented by V.S.J Advocate]
Vs.

RESPONDENT /s: Sidanna S/o Ramanna Ajanal
Age: 65 years, Occ: Retired KPC emp
R/o: Near Bhat Hospital, Township
Dandeli.

[Represented by MCH Advocate]

ORDER

The present petition is filed seeking a monthly maintenance of Rs.22,000/- to the petitioner along with petition the petitioner has filed interim application seeking for interim maintenance of Rs.5,000/- each to the petitioner.

2. The petitioner contended that she is the legally wedded wife of the respondent; Marriage of the petitioner with respondent was solemnized 50 years back in the said wedlock a 2 male and 2 female were born; After the marriage the petitioner started to lead marital life with respondent at his house Ganeshgudi with profound hope of leading a marital life; The respondent looked after her happily. After 5 to 6 years, respondent with his friends and fell to habit of alcohol. The respondent behaved indifferently towards the petitioner and quarreled with petitioner for each and every trifle matter without any cause or reasons and used to beat and petitioner. Respondent was working in K.P.C Ltd, is now getting a pension of Rs.48,114/- every month. And he earns more than Rs.5,00,000/- from the income of agriculture. Hence this petition.

3. The respondent file objections denying the entire petitioner averments while admitting the factum of marriage. The petitioner with the respondent was solemnized 50 years back and out of the

said wedlock, two male and two female are born to the petitioner. After the marriage the petitioner started to lead marital life with respondent. The respondent was working in KPC Ltd. The respondent behaved differently towards the petitioner and quarreled with petitioner for each and every trifling matter without any cause or reason. That the respondent used to beat the petitioner as well as the children and never kept happily and the relatives and friends or petitioner of petitioner have advised the respondent not to torture the petitioner. That the daughter of the petitioner by name Satyavva always used to give torture to the petitioner and they tried to remove petitioner from the house and the respondent and his daughter tried to give false complaint on 10.05.2019 to the Town Police Station, Dandeli. The respondent has voluntarily, intentionally and deliberately deserted petitioner and the petitioner has no source of income and has no landed property of her own. The petitioner is residing now along with her daughter and her children and are residing with their family

and children and they are already over burden and the petitioner has at no point of time left the company of the respondent of her own. The respondent was working KPC Ltd.and he is getting pension of Rs.48,114/- every month and income of agriculture 5,00,000 and the respondent has voluntarily and deliberately deserted petitioner and she is struggling hard to maintain herself in this had and difficult days. The petitioner is requires at least Rs.22,000/- to maintain herself and for her medical treatment. The respondent made fixed deposit of Rs.5,00,000 at Syndicate Bank Dandeli and Rs.5,00,000 at State Bank of Mysore Dandeli in the joint name of petitioner and respondent in the year 2015 for the period of two years. And also purchased gold ornaments more than 500 g's and other valuable document which is now in the custody of the petitioner. In the year 2009 the respondent executed the gift deed with respect of house No.45/A-SIHS situated at Township, Dandeli in the name of the petitioner on account of love and affection. The petitioner had given the

portion of said house on rental basis she is getting monthly rent not less than 10,000 per month. The petitioner and her sons pressurized the respondent handover entire monthly pension amount to them and this respondent refused to pay his pension amount to them and hence the petitioner and her sons have beaten the respondent and they restrained the respondent from coming out of his house. They forcibly kept in the room of the house by locking the door of room. The second son of the petitioner was heavy drinker and he used to manhandling on the respondent on many times with the support of the petitioner. The respondent came out from his house 20th December 2016 and gone to the house of his daughter at Mysore and she gave the shelter to the respondent. When the respondent came to his house from Mysore, the petitioner and her second daughter and her sons have not allowed the respondent to enter the house No.47 by giving mental and physical torture and hence the respondent made the petition before the Town Police Station,

Dandeli against them. The main object of physical and mental torture to the respondent was only to pressurise the respondent to transfer the house No.47 of Lenin Road, Dandeli in the name of second son by way of registered gift deed and to take entire monthly pension amount to them. The respondent executed the registered gift deed of house No.47 on 06.12.2017 in the name of his elder daughter. The petitioner and her sons are now also not allowing the respondent and his daughter to enter the house. and accordingly would seek dismissal of the petition.

4. Having heard the learned counsel for the petitioner the points that would arise for my consideration are as follows:

-POINTS-

1. Whether the petitioner has made out grounds to allow the application?
2. Whether the petitioner is entitled to reliefs sought for?
3. What order ?

5. My aforesaid answers to the aforesaid points are as under:-

POINT No.1 & 2 : In the Negative

POINT No.3 : As per final order for the following:-

REASONS

6. **POINT No.1 :-** In the present case, at this stage burden lies on husband to prove that on prima facie he did not neglect or refuse to maintain his wife. In the present case, it is admitted that the petitioner and respondent are the wife and husband. evident that the respondent being alcoholic has neglected to look after and maintain the petitioner.

7. In order to claim maintenance under Section 125 of Cr.P.C the relationship has to be established. In the present petition it is admitted that the petitioner to be the wife of respondent.

8. Further it has to be established that the respondent has sufficient means to maintain, neglected and refused to maintain

to the petitioners and the claimants are unable to maintain themselves. It is a peculiar case wherein not the petitioner but the respondent who is living away from his house. And now the petitioner is living in the same house along with her children. And it is also asserted by the respondent that the petitioner is getting a monthly rent of Rs. 10,000/-. It is also alleged by the respondent that he was pressurized to handover his entire pension to the petitioner. And he was locked in room and tortured. From there he has escaped and so is living along with his second daughter at Mysore.

9. From perusal of entire documents produced by both the parties, and at this stage as the petitioner is already residing in the house built by respondent and on prima facie it is seen that the respondent has not neglected or refused to maintain petitioner and she has sufficient means to maintain herself. Hence I answered point No.1 in the Negative.

10. POINT No.2: Having answered point number 1 in the negative, I come to a conclusion that the petitioner is not entitled for the relief as sought. Accordingly, I answer point no.2 in the negative.

11. **POINT No.3:-** In view of my finding on Point No. 1 & 2 I proceed to pass the following:-

ORDER

The application filed by the petitioner under sec. 125 CrPC seeking interim maintenance is hereby rejected.

For cross examination of PW1.

Call on, 18/05/2023.

(Dictated to the stenographer, transcribed by him, transcript revised by me, corrected, signed and then pronounced in the Open Court on this the 23rd day of March-2022)

**CIVIL JUDGE & J.M.F.C,
DANDELI**

APPENDIX

List of witness examined on behalf of the plaintiffs :

P.W.1 : Laxmibai

List of documents exhibited on behalf of the plaintiffs :

Ex.P. 1 : Aadhar card
Ex.P. 2 : Bank pass book
Ex.P. 3 : Legal notice
Ex.P. 4 : Pension pay slip

List of witness examined on behalf of the defendant:

- NIL -

List of documents exhibited on behalf of the defendant:

- N I L -

Civil Judge & JMFC.,
Dandeli

(Vide separate order)

ORDER

The application filed by the petitioner under sec. 125 CrPC seeking interim maintenance is hereby rejected.

For cross examination of PW1.

Call on: 18/05/2023.

CIVIL JUDGE & J.M.F.C,
DANDELI