

- Order Below Exh. 33 -
(Passed on 20/11/2023)

1) This is an application filed by applicants to deduct/lien mark pension of the opponent and to deposit maintenance amount monthly in the Court.

2) It is contention of applicants that, opponent is avoiding to pay maintenance amount. He is retired pensioner. He has bank account in Bank of India, Branch Islampur, Tal. Walwa, Dist. Sangli having Account No. 150512110000742. Total 27,000/- maintenance amount is due from the opponent. Hence it is prayed to direct the Branch Manager, Bank of India, Branch Islampur, Tal. Walwa, Dist. Sangli to deduct/lien mark pension of the opponent and to deposit maintenance amount monthly in the Court. Thus, applicants prayed to allow the application.

3) In spite of sufficient opportunity opponent has failed to file say on the application. Hence, no say order is passed against him on 30/09/2023. So also none present for argument on behalf of opponent. Hence, I have heard argument of applicants and proceeded further. Today also none present of opponent.

4) Heard learned advocate for applicant. He submitted in the tune of application. He has relied upon;

(i) Naseera Begum & Ors. V/s. Syed Habibur Rehman & Ors., (1995) IILJJ 462 Bom., Honble Bombay High Court, decided on 05.10.1993.

(ii) P. Amutha V/s. Gusekaran, Honble Madras High Court, CrI.R.C.NO. 1501 of 2022, decided on 23.12.2022.

I have gone through the citations. Citation no. (i) is about the attachment of salary of opponent. Citation no. (ii) is about the attachment of pension of the opponent. As per ratio laid down in Citation no. (ii), even the pension of opponent (Govt.Servant) can be attached for the recovery/collection of the arrears of maintenance. Perused the record. It appears that, as per judgment and order in Crim.M.A.No. 221/2015, the applicants have filed present application under sec. 125(3) of Cr.P.C. for recovery of maintenance amount of Rs. 60,000/- for a period 02.11.2016 to 01.11.2017 from opponent. As per said order Rs. 2500/- each maintenance is granted to applicant no. 1 and 2. As per application Rs.27,000/- is due till date toward maintenance from the opponent. The opponent has not denied that he is a pensioner and having said bank account in his name. Previously correspondence to said bank was done as per order below application Exh. 12. From the letter of Bank of India, Branch Islampur dated 12.01.2022 it appears that, opponent is having above numbered savings account. Even the perusal of the record shows that the opponent is irregular in the payment of maintenance. Since 23/03/2023, opponent has not paid any amount to the applicants. The applicants have not prayed for attachment of the pension of opponent. Therefore the citations relied upon by the applicants is not applicable for the present application. However, the ratio laid down in the citations are helpful in present case, because as per those citations salary and the pension of opponent can be attached for the recovery of maintenance amount. Thus considering overall legal and factual aspect, it would be appropriate to direct the Branch Manager, Bank of India, Branch Islampur to deduct the amount of Rs. 5000/- per month toward maintenance from the pension account of

opponent till the recovery of Rs. 27,000/- and the same be deposited in the Court on each month without failure. Therefore, I pass the following order.

ORDER

- 1) Application Ex. 33 is allowed.
- 2) The Branch Manager, Bank of India, Branch Islampur, Tal. Walwa, Dist. Sangli is hereby directed to deduct the amount Rs. 5,000/- (Rs. Five thousand only) per month towards maintenance from the pension account no. 150512110000742 of the opponent Dhondiram Ganpati Kamble till the recovery of Rs. 27,000/- and the same be deposited in the Court on each month without failure.
- 3) Issue letter to Branch Manager, Bank of India, Branch Islampur, Tal. Walwa, Dist. Sangli accordingly.

Shirala.
Date :- 20/11/2023.

Sd/-
(Smt. V. A. Desai)
Judicial Magistrate First Class
Shirala

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/ Order are same word to word as per the original order.

Name of Stenographer :- V. S. Patil, Stenographer (Grade III)

Court Name :- Civil Judge (Jr. Dn.) and J.M.F.C., Shirala.

Date :- 20/11/2023

Order signed by the :- 20/11/2023
presiding officer on

Order uploaded on :- 21/11/2023