

**Cri.M.A. No. 124/2021**

Meena Kamble

... **Applicant,****Versus**

Dhondiram Kamble

... **Respondent,****ORDER BELOW EXH.31**

MHSN14-000853-2021

1. This is an application filed by the applicant for attachment of pension of respondent to recover an amount of arrears of maintenance.
2. It is contention of applicant that, main application is filed for recovery of Rs. 90,000/- towards maintenance on 01/10/2021. Till today respondent has paid only Rs. 21,500/- to the applicant. Respondent is retired police officer and pensioner, still he is not paying maintenance regularly. Respondent used to withdraw the amount by using ATM when applicant filed application to deduct the amount from pension account. Respondent is deliberately prolonging the matter without paying maintenance amount. Applicant has given details about account of respondent and prayed to attach the pension account for deduction of Rs. 68,500/- and to deposit it in the court.
3. In spite of sufficient opportunity respondent failed to file say on present application. Hence on 15/06/2024 no say order is passed against respondent. Thereafter on same day respondent filed pursis Exh. 33 contending that say given in Cri. M.A. No. 158/2017 on Exh. 37 be read as say on present application. Latter on 10/07/2024 opponent filed say on the application but inspite of oral direction failed to file application to set aside no say order passed against him. Therefore, say given by the opponent can not be taken in to consideration.

4. Heard Ld. Advocate for applicant. No argument canvassed on behalf of opponent. Perused record. 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. 90,000/- for a period 01/04/2020 to 30/09/2021 from opponent. As per said order Rs. 2500/- each maintenance is granted to applicant no. 1 and 2. As per application Rs.68,500/- 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. Even the perusal of the record shows that the opponent is irregular in the payment of maintenance. Since 13/12/2023, opponent has not paid any amount to the applicants.

5. The Hon'ble Bomaby High Court in the case of *Nasera Begum & others Vs. Syed Habibur-Rehaman & another, reported in 1995(1) Mh.L.J. 321*; wherein held that,

“Future salary from employer can be said to be tangible movable property of employee, therefore, the Court is not prohibited forever to issue warrant for attachment to salary”

6. The respondent, in spite of various an opportunities failed to pay substantial amount of maintenance. Considering the arrears of an amount of Rs.68,500/- and the respondent is pensioner, it is proper to attach monthly Rs.5,000/- when respondents pension is credited by the concerned authority. Hence, the present application deserves to be allowed. With this, I proceed to pass following order.

**ORDER**

1. The application stands allowed.
2. The pension of respondent is hereby attached.
3. The Branch Manager, Bank of India, Branch Islampur, Tal. Walwa, Dist. Sangli is hereby directed to deduct the amount Rs. 5,000/- per month towards maintenance from the pension account no. 150512110000742 of the opponent Dhondiram Ganpati Kamble till the recovery of Rs. 68,500/- and the same be deposited in the Court on each month without failure.
4. Issue letter to Branch Manager, Bank of India, Branch Islampur, Tal. Walwa, Dist. Sangli accordingly.

Shirala.

Date :- 07/08/2024

**(Smt. V. A. Desai)**

Judicial Magistrate First Class

**CERTIFICATE**

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

Name of the Stenographer : M. S. Gondkar

Name of Court : Jt. C.J.J.D. & J.M.F.C., Shirala

Date :07/08/2024

Order signed by the  
Presiding Officer on : 07/08/2024

Order uploaded on : 08/08/2024