


MHWS010015972022	Presented on : 03/10/2022
	Registered on : 04/10/2022
	Decided on : 22/05/2026
	Duration : 03Y 07M 18D

IN THE COURT OF
ADDITIONAL SESSIONS JUDGE, WASHIM.
(Presided over by Smt.V.D.Ingle.)

Criminal Revision Appln. No.38/2022
Exh. 14

	Ashok Pralhad Dandade Age: 60 Yrs. Occu.: - Retired R/o Mandhane Layout, Washim Tq. Dist. Washim.	PETITIONER (Ori. applicant)
	Versus	
1)	Leelabai Ashok Dandade Age: 54 Yrs. Occu.: - Household, R/o Kalamgavhan, Tq. Risod, Dist. Washim.	
2)	Seema Ashok Dandade Age: 30 years, Occu.: - Household, R/o. Kalamgavhan, Tq. Risod, Dist. Washim.	RESPONDENT (Ori. Non applicant)
<u>REVISION UNDER SECTION 397 OF CR.P.C., 1963.</u>		
	Advocates: For Petitioner : Shri. G.V. Biyani. For Respondent : Shri. Z.G. Shaikh.	

J U D G M E N T

(Delivered on this 22nd May, 2026)

Being aggrieved by the order passed by the learned JMFC, Risod, in Criminal application No.43/2014 dated 30/08/2022 whereby learned trial Court was pleased to partly allow the petition and set aside the judgment of granting maintenance to the non applicant no.2 passed in MJC No.67/1994 on 15.07.1995 and had dismissed/rejected to set aside the order of maintenance passed against the non applicant no.1 in MJC No.67/1994 on 15.07.1995, the petitioner is filing the revision u/s 397 of Cr.PC against this order amongst following facts and grounds.

2] The applicant had alleged that non applicant had filed MJC No.67/1994 under section 125 CrPC for maintenance of herself and daughter. The same came to be allowed on 15/07/1995 and maintenance amount of Rs.400/- per month was allowed to the non applicant no.1 and Rs.350/- per month allowed to the non applicant no.2. On 24/06/1997 the non applicant no.1 along with her family members father, mother and other relatives had settled the matter and dispute with the applicant and had agreed that the applicant shall transferred the immovable agricultural land in favour of the non applicant no.1 and shall deposit of Rs.35,000/- in cash in the name of non applicant no.1 and her daughter Seema.

3] As per the settlement the applicant had transferred the agricultural land of village Gohegaon, Tq. Mehkar, Dist. Buldhana bearing Gat No.118, admeasuring 04H=54R out of that 01H=01R that is 2 acres 20 gunthas land in the name of non applicant. Said document is registered with Sub-Registrar Mehkar at Sr.No.1584/1997 dated 23/06/1997. As per settlement the applicant had also deposited the amount of Rs.35,000/- as fixed deposit with State Bank of India, Branch Kenwad in the name of non applicant.

4] The applicant further alleged that the copy of the said compromise was filed in RCC No.114/1994 Narayan v. Ashok at Exh.43. Since he paid the entire amount in terms of immovable property as a permanent alimony and maintenance amount to the non applicant, hence, there is no question of making enhancement in the maintenance amount. Non applicant is earning good income of Rs.72,000/- to Rs.80,000/- per year from said land. The non applicant was residing separately and away from the applicant. The non applicant is doing the tailoring job and she is earning money from it.

5] The non applicant filed one petition MJC No.54/2008 against the applicant before the JMFC, Washim for recovery of the arrears amount of maintenance. Said proceeding were came to be dismissed in default. The applicant had filed one petition before

the JMFC Washim under section 127 of CrPC to set aside the order of maintenance passed in MJC No.67/1994. However the said application was returned and hence, the same was filed before the learned trial Court. The applicant prayed to set aside the order of maintenance passed in MJC No.67/1994 since 24/06/1997 against the non applicants.

6] The applicant had appeared in the proceeding and had filed his written statement vide Exh.6. The non applicant had opposed the claim of the applicant. The applicant had filed affidavit at Exh.8 and 16. The non applicant had filed his affidavit at Exh.30. The applicant had filed the copy of the judgment in MJC No.67/1994 at Exh.22, the copy of the complaint in RCCNo.114/1994 at Exh.23, the copy of the compromise at Exh.43,44, the copy copy of 7/12 extract of Gat No.118 at Exh.24,25, the copy of Exh.19 filed before JMFC Washim in MJC No.180/2010 which is at Exh.26. The learned trial court was pleased to partly allowed the petition of the applicant and thereby set aside the order of the maintenance against the daughter however, had refused to set aside the order of maintenance passed in MJC No.67/1994 against the non applicant no.1 Leelabai.

7] The petitioner is challenging the order or dismissing or rejecting the claim of setting aside the order of maintenance passed in MJC No.67/1994 against the non applicant no.1 Leelabai.

Grounds :

8] The learned trial Court had wrongly held that the applicant had failed to prove that the non applicant is earning the income from the land and tailoring job. The learned trial Court had erred in holding that the applicant is not entitled for setting aside the order of maintenance passed in MJC no.67/1994 against the non applicant no.1 Leelabai. He further alleged that the learned trial Court in para no.33 of the judgment had wrongly inferred that the non applicant and the applicant had settled only RCC no.114/1994. It is pertinent to note that after from that matter no other matter was pending in the court. The learned trial Court ought to have seen that the non applicant had kept silence since 1997 till 2008 and she had not asked for any kind of maintenance amount from the applicant. It is very much clear that the non applicant was enjoying the fruits of the agricultural field which she was given in lieu of maintenance as per settlement.

9] The learned trial Court had erred in holding that the applicant had failed to prove that the non applicant was earning the amount of Rs.72,000/- to Rs.80,000/- per year from the income of the agricultural land which was transferred to her in terms of compromise in lieu of maintenance. The learned trial Court failed to appreciate the fact that the non applicant in her cross examination had clearly stated that the agricultural land transferred to her in term of compromise was in her name and she is in possession of the said agricultural land. The learned trial

Court had wrongly appreciated the admission of the non applicant wherein she had lost the possession of the agricultural. However, the learned trial Court had completely ignored the fact that the non applicant had not taken any steps to restore the possession. Thus, it could be easily inferred that the applicant given the land in lieu of maintenance and she was cultivating it. Thus, the above appreciation needs to be set aside.

10] The learned trial Court ought to have held that the applicant was given an immovable property in lieu of permanent of maintenance. That the learned trial Court ought to have held that the said agricultural land was standing in the name of the non applicant and she is enjoying the fruits of the said agricultural land. The learned trial Court erred in coming to the conclusion that the applicant had failed to prove that the amount of Rs.35,000/- was deposited with the Bank and she is enjoying the interest of the said deposit. The learned trial Court had wrongly inferred that in terms of the salary slip and the details of the pension of the applicant, he is earning much more. The learned trial Court had erred in coming to the conclusion that the applicant had failed to give in evidence recorded the income of the agricultural of the non applicant.

11] The learned trial Court had failed to appreciate the case laws given by the applicant. The learned trial Court had failed to appreciate the fact that on the basis of available evidence and

the documents the applicant was given the immovable property i.e. agricultural land in lieu of the maintenance which is a permanent source of income for livelihood.

12] The learned trial Court had erred in holding that the non applicant is entitled for the maintenance amount. It is well settled principle of law that once the full and final amount of maintenance is given to the wife in terms of cash or kind or immovable property and she is living separately, then she is not entitled to claim the enhancement amount in the granted or given maintenance amount from the husband. The judgment passed by learned trial Court is against this well settled principle of law and hence, the same is perverse and deserved to be dismissed with costs. Hence, applicant prayed to allow the revision petition and to set aside the judgment passed by JMFC, Risod in Misc. Cri. Application No.43/2014 in the matter of Ashok v. Leelabai dated 30/08/2022

13] Heard both the sides. Following points arise for determination and I have recorded my findings thereon for the reasons followed thereafter :

Sr. No.	Issues	Findings
1.	Whether the Trial Court passed correct, legal and proper order?	Affirmative.
2.	What Order?	As per Final Order.

REASONS**Point No.1 and 2 :**

14] It is the contention of learned counsel for non-applicant is that the non-applicant was given an immovable property in lieu of permanent maintenance. Hence once the full and final amount of maintenance is given to wife in terms of cash or fine or immovable property and she is living separately then she is not entitled to claim the enhancement amount in the granted or given maintenance amount from the husband. So also the learned counsel for the non-applicant also argued that the learned trial court erred in coming to the conclusion that non-applicant had failed to prove that the amount of Rs. 35,000/- was deposited in the applicants Bank account and she is enjoying the interest of the said deposit.

15] Hence it is necessary to considered the evidence and finding passed by the learned trial Court in that regard. It is a specific contention of learned counsel for the non-applicant that the appellant in her cross-examination had clearly stated that the agriculture land transferred to her in terms of compromise was in her name and she is in possession of the said agricultural land, but it appears that the non-applicant has not file any document showing income from the said land to the applicant and she is capable to maintain herself hence the learned trial court rightly observed in para no. 34 that though the land Gut No. 118 was

given in the name of applicant as per compromise deed but it has not come on record that she is drawing income from the said land and is capable of supporting herself. It also appears from the evidence of non-applicant that though he deposed that in compromised which took place between him and applicant he gave 35,000/- to the applicant. But he he failed to produce any document showing that he deposited the said amount in the account of applicant.

16] On the other hand the applicant has filed on record salary slip and pension slip of non-applicant which shows that applicant is getting sufficient pension amount, hence the learned trial court has rightly observed that in para no. 35 it is not brought on record that the applicant has another son and she is living with him. The learned trial court rightly observed that the amount of maintenance received by the applicant in the previous case was only of Rs. 400/- per month and considering the increase market price and other prices during the last 25 years. It is impossible for the applicant to maintain herself on this maintenance of Rs. 400/- per month. It is also brought on record that the non-applicant has neglected the maintenance of the applicant. Even though he has sufficient means of income.

17] It appears that since 1994 parties have filed many cases against each other, it also appears that the learned trial court after taking into consideration of document and oral and

documentary evidence rightly passed judgment and order. It appears that there is no illegality or incorrectness in the judgment and order passed by the trial court. Therefore, order of learned trial court does not warrant interference. Hence, I answer point No.1 in the affirmative and hold that the revision petition is devoid of merit and is liable to be dismissed. In the result, in answer to point No.2, I proceed to pass following order.

ORDER

- 1) Criminal Revision Application stands dismissed.
- 2) Proceeding is closed.

Date : 22/05/2026

(V.D.Ingle)
Additional Sessions Judge,
Washim.

CERTIFICATE

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

Name of Stenographer :- T.R.Ugale, Stenographer (Grade-III)
Name of Court :- Smt.VD.Ingle
District Judge-2 and Additional
Sessions Judge, Washim.
Date of Judgment/ Order :- 22/05/2026
Judgment/Order signed by :- 22/05/2026
the Presiding Officer on
Judgment/Order uploaded on :- 22/05/2026