

MC 57/2022

Order dated :-
24.11.2023

Today is fixed for interim order and evidence positively.

Both the sides are present by filing hajira.

Heard the Ld. Advocates for both sides in full. Perused the materials on record including the affidavit of assets and liabilities submitted by both sides.

Now, the record is taken up for passing of the order.

The contention of the Petitioner is that she is a widow of 74 years old and the OP is her only son. Both she and her son are living in the same bastu which they got by way of inheritance upon demise of her husband Gopinath Bhore. She has no independent income to maintain herself. On contrary, the OP has monthly income of Rs.1,00,000/- from Motor Training School, rented rooms and landed properties. Since recent past, OP has been failing and neglecting to maintain her. More so, OP has been threatening her to oust from the bastu forcefully. Presently, she has been residing with her daughter at village Bahirtafa, Uluberia. Further, she has been suffering from chill penury having no income of her own. She has claimed of Rs.10,000/- per month as interim maintenance to meet the day to day expenses in the days of high market price during the pendency of this case.

By submitting W/O, the O.P. has stated that this case is not maintainable either in law or fact. The petitioner has no cause of action. The allegation has been made falsely and frivolously against the O.P. with an intention to harass the O.P. the specific contention of the OP is that his father in his life time gifted some properties to his elder daughter and cousin brother but later, his father instituted civil case for cancellation of said deed and the same is still pending. Further, all the sisters of this OP, acquired some valuable properties fraudulently by way of deed from his father during his ailment. Accordingly, this OP also filed a civil case for cancellation of said deed. His sisters asked the OP not to proceed those cases. But the OP did not pay heed to their proposal and still is conducting those cases. So, failing to fulfill their purpose, his sisters filed this false case through his mother. Even, he is trying to convince his mother to stay with him but she is not agreed rather she is staying with her daughter. Further, the petitioner is a pension holder and is getting family pension of Rs.10,000/- per month and the deceased Gopinath Bhore was the primary teacher and he used to get pension till his death. But that fact has been concealed by the petitioner. Again, this OP has a motor training school and he earns Rs. 20,000/- to 25,000/- per month from his profession. His sisters put pressure upon his mother to file this case to grab more property and harass him. Further, his mother has not come in clean hand and even after repeated requests, she never came and is not agreed to stay with him. He is ready to maintain and look after his mother. Apart from that, the OP has burden to maintain his family and incur huge money for the treatment of his wife with his meager income. So, he has prayed for refusal of the prayer for interim maintenance.

Heard, considered, perused the material relied upon both sides including the documents.

But, there is no single documents regarding income of O.P. except the affidavit of assets and liability. There are allegations and counter allegations as well which at this stage in the absence of any evidence cannot be taken into for discussion and consideration.

The petitioner submitted that she does not even have any income and is staying alone whereas the OP is an able bodied person having monthly income of Rs.

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Rs.1,00,000/- from his profession. As such, she has claimed interim maintenance of Rs.10,000/- per month for herself per month. The OP has denied the earnings as mentioned by petitioner and he has stated that he earns Rs. 20000/- to 25,000/- per month having other liabilities. The petitioner has also submitted a photo copy of pension for the year 2003 while the husband of the petitioner was alive. But the petitioner has failed to produce any documents to show how much money she is getting as family pension at present.

The interim maintenance is granted with a view to save the life of the persons claimed during the pendency of the proceeding and it is not doubt that the petitioner is getting family pension. But she has not come in clean hand and failed to disclose the amount of monthly family pension.

Considering the above and applying the rule of prudence, I am not inclined to grant interim maintenance to the petitioner at this stage.

Hence, it is

ORDERED

that the interim application stands rejected at this stage.

Thus, the interim application is hereby disposed off.

There shall be no order as to costs.

Let a copy of this order be supplied to the petitioner free of cost.

Fix 19-03-2024 for evidence.

D/C by me

J.M. 2nd Court Uluberia

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