

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 26TH DAY OF AUGUST, 2022

BEFORE

THE HON'BLE MR.JUSTICE M.G.S.KAMAL

RPFC No.200012/2020

C/W

RPFC No.200082/2019

RPFC NO.200012/2020

BETWEEN

1 . HAMAPAMMA@ SARVAMANGALAMMA
W/O LINGANAGOUDA AGE: 35 YEARS
OCC: HOUSEWIFE

2 . AMBIKA D/O LINGANAGOUDA
AGE: 15 YEARS, OCC: STUDENT

3 . MALLIKA D/O LINGANAGOUDA
AGE: 9 YEARS, OCC: STUDENT

PETITIONER NO. 2 & 3 ARE U/G OF
PETITIONER NO. 1

ALL ARE R/O C/O BHAVANI RICE MILL
GADWAL ROAD, RAICHUR-584101

...PETITIONERS

(BY SMT. PATIL SHANTABAI SUBHASH, ADVOCATE)

AND

1 . LINGANGOUDA S/O JADEPPAGOUDA
AGE: 46 YEARS, OCC: EMPLOYEE IN HUTTI
GOLDMINES CO. LTD, HUTTI

R/O CHINCHARAKI VILLAGE,
TQ:MANVI, DIST: RAICHUR-584115

...RESPONDENT

(BY SRI P. NITESH VILASKUMAR, ADVOCATE)

THIS RPFC FILED U/S. 19(4) OF THE FAMILY COURTS ACT,
PRAYING TO ALLOW THE PETITION MODIFYING JUDGEMENT
AND ORDER DATED 08.04.2019 IN CRL.MISC.NO.368/2018
PASSED BY THE PRL. JUDGE FAMILY COURT AT RAICHUR,
PLEASED TO ENHANCE THE MAINTENANCE TO THE
PETITIONERS, IN THE INTEREST OF JUSTICE AND EQUITY.

RPFC No.200082/2019

BETWEEN

LINGANAGOUDA S/O JADEPPAGOUDA
AGE: 45 YEARS, OCC: EMPLOYEE IN HUTTI
GOLD MINES CO. LTD, HUTTI
R/O CHINCHARAKI VILLAGE
TQ: MANVI, DIST: RAICHUR

...PETITIONER

(BY SRI B. K. HIEMATH, ADVOCATE)

AND

1 . HAMPAMMA @ SARVAMANGALAMMA
W/O LINGANAGOUDA
AGE: 35 YEARS, OCC: HOUSEHOLD
R/O C/O BHAVANI RICE MILL
GADWAL ROD, RAICHUR

2 . AMBIKA D/O LINGANAGOUDA
AGE: 15 YEARS MINOR, OCC: STUDENT
U/G OF HER NATURAL MOTHER
RESPONDENT NO.1

3 . MALLIKA D/O LINGANAGOUDA
AGE: 9 YEARS MINOR, OCC: STUDENT
U/G OF HER NATURAL MOTHER

RESPONDENT NO.1

...RESPONDENTS

(BY SMT. SHANTA S. PATIL, ADVOCATE FOR R1;
R2 & R3 MINORS REPTD. BY R1)

THIS RPFC FILED U/S. 19(4) OF THE FAMILY COURTS ACT,
PRAYING TO CALL FOR THE RECORDS AND SET ASIDE THE
IMPUGNED ORDER PASSED BY THE PRL. JUDGE FAMILY COURT,
RAICHUR IN CRL.MISC.NO.368/2018 ON DATED 08.04.2019 IN
THE INTEREST OF JUSTICE AND EQUITY.

THESE PETITIONS COMING ON FOR ORDERS THIS DAY,
THE COURT MADE THE FOLLOWING:-

ORDER

The parties will be referred to as per their
rankings before the Family Court.

2. RPFC No.200012/2020 is filed by the
petitioners/wife and children while RPFC
No.200082/2019 is filed by the petitioner/husband
aggrieved by the order dated 08.04.2019 passed in
Crl.Misc.No.368/2018 on the file of the Principal
Judge, Family Court at Raichur.

3. The petitioners/wife and children have filed a petition under Section 125 of Cr.P.C. against the respondent/husband before the Family Court seeking direction to the respondent/husband to pay Rs.15,000/- per month to petitioner No.1 and Rs.6,000/- per month each to petitioner Nos.2 and 3 in all Rs.27,000/- per month along with litigation cost of Rs.10,000/-.

4. It is the case of the petitioners that the marriage of petitioner No.1 was solemnized with the respondent on 10.05.2003 in Mouneshwara temple, Tinthini village, Shorapur taluka, Yadgir district in the presence of the elders in accordance with the customs prevailing in their community. The parents of petitioner No.1 have fulfilled the demands of respondent by giving 2 tolas of gold ring and Rs.50,000/- cash and borne the entire marriage expenses of RS.2,00,000/-. Petitioner Nos.2 and 3

were born to petitioner No.1 and the respondent. That the petitioner No.1 and the respondent lived together up to the delivery of petitioner No.3 and thereafter, the respondent started to harass petitioner No.1 and started to demand to bring the money from her parents house. That petitioner No.1 tolerated the harassment on the fond hope of leading happily married life with the respondent. The respondent however threw the petitioner No.1 out of the house and threatened her not to come to his house again. Petitioner No.1 for the sake of minor children, started to live in Raichur by doing coolie work and now due to her ill-health, she is not in a position to continue her work and support the family. That the respondent has refused to give any maintenance denying his relationship with her. In the meanwhile, mediation and conciliation was held but the family members of respondent are not ready to accept and allow

petitioner No.1 to live with the respondent. That the respondent is working in Hutti Goldmines Company and earning Rs.45,000/- per month and is residing in a company provided quarters and is capable of giving maintenance of Rs.15,000/- to petitioner No.1 and R.6,000/- each to petitioner Nos.2 and 3 as claimed.

5. In response to the service of notice, the respondent/husband appeared and filed statement of objections contending that he had married one Savantramma on 18.02.1990 at Sharanabasava temple, Toranadinni village, Manvi taluka as per Hindu Lingayat customs and since said Savantramma has not given birth to any child, he had married petitioner No.1. That petitioner No.1 is the second wife and petitioner Nos.2 and 3 are the children of the respondent, however, he has contended that petitioner No.1 has no right to seek maintenance against the respondent. He has further stated that he

being an employee getting meager salary has no financial capacity to pay the maintenance amount as claimed by the petitioners. Hence, sought for dismissal of the petition.

6. The petitioner No.1 examined herself as PW.1 and produced 11 documents marked as Exs.P1 to P11. The respondent examined himself as DW.1 and produced 2 documents marked as Exs.R1 and R2.

7. The Family Court on consideration of the material evidence, awarded the maintenance of Rs.2,000/- per month to petitioner No.1 and Rs.2,500/- per month each to petitioner Nos.2 and 3 from the date of the petition till the lifetime of petitioner No.1 and till petitioner Nos.2 and 3 got married. Being aggrieved by the said judgment and order, the petitioners/wife and children are before this Court seeking enhancement of the maintenance while

the respondent/husband is before this Court seeking reduction of the maintenance amount awarded by the Family Court.

8. Smt. Shanta S. Patil, the learned counsel for the petitioners/wife and children reiterating the grounds urged in the memorandum of petition submitted that the salary certificate at Ex.R1 produced by the respondent is of the year 2018 and there is revision in the salary and presently he is earning more than what is mentioned in Ex.R1. She further submits that the respondent is also having 10 acres of land and deriving income from the same as well. She also submits that the award of maintenance by the Family Court is meager and the same is not just and proper to meet the family necessity of the petitioners. Hence, she seeks for enhancement of maintenance awarded by the Family Court.

9. On the other hand, Sri B.K.Hiremath, learned counsel for the respondent/husband submits that petitioner No.1 being the second wife is not legally entitled for maintenance. He further submits that the first wife is living with the respondent and his income is only Rs.9,000/- per month after the deductions, which is not sufficient to cater the demand being made by the petitioners. He also submits that the maintenance as awarded by the Family Court is exorbitant and the same be reduced.

10. Heard the learned counsel for the parties and perused the records.

11. The relationship between the petitioners and the respondent is not denied. The marriage of petitioner No.1 with the respondent is admitted. Petitioner No.1 had to leave the matrimonial home because of the alleged harassment meted out by the

respondent. Petitioner No.1, who was apparently working as a coolie and because of her ill-health has stated that she is not in a position to earn and support her family. She has also stated that the respondent is owning 10 acres of agricultural land and deriving income from the same. Considering the over all facts and circumstances of the case, the Family Court has come to the conclusion that respondent be directed to pay Rs.2,000/- per month to petitioner No.1 and Rs.2,500/- per month each to petitioner Nos.2 and 3. The aforesaid amount awarded by the Family Court appears to be just and proper and the same is maintained and it does not require any enhancement or reduction as sought for by the petitioners and the respondent. The order passed by the Family Court does not suffer from any infirmity or illegality. In that view of the matter, following:

ORDER

- a) The petition filed by the petitioners/wife and children in RPFC No.200012/2020 is dismissed.
- b) The petition filed by the respondent/husband in RPFC No.200082/2019 is also dismissed.
- c) The judgment and order passed by the Family Court in Crl.Misc.No.368/2018 is confirmed.

**Sd/-
JUDGE**

Srt