

(2019) 03 CHH CK 0006
In the Chhattisgarh High Court
Case No : Writ Petition (227) No. 394 Of 2018

Uttar Kumar Bhoi

APPELLANT

Vs

Surekha Bhoi

RESPONDENT

Date of Decision : 12-03-2019

Acts Referred:

Constitution Of India, 1950 — Article 227
Maintenance And Welfare Of Parents And Senior Citizens Act, 2007 — Section 2(b),
2(d), 2(e), 4, 4(3), 5, 9

Citation : AIR 2019 Chh 101

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : Manoj Kumar Sinha, Aarti Chandra Dutt

Final Decision : Dismissed

Judgement

1. Petitioner herein is son and respondent No.1 herein is his step mother whose application under Section 4 read with Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, 'the Act of 2007') has been granted by the Tribunal constituted under the Act of 2007 by the impugned order directing payment of Rs. 10,000/- per month as maintenance amount and which has been challenged by way of this writ petition.

2. Mr. Manoj Kumar Sinha, learned counsel for the petitioner, would submit that learned Tribunal is absolutely unjustified in granting maintenance to the respondent which is shockingly high and the petitioner is incapable of making payment of the said amount. He would also submit that the petitioner is ready and willing to maintain the respondent by keeping her with him but she is not ready and willing to stay with him and therefore the order passed by Tribunal deserves to be set aside.

3. Ms. Aarti Chandra Dutt, learned counsel for the respondent, would submit that the Tribunal is absolutely justified in granting maintenance to the tune of Rs. 10,000/- per month as the petitioner is working as a government teacher in the

government education department and earning sufficient money to maintain his mother and he is financially capable of making payment of Rs. 10,000/- per month, as such writ petition deserves to be dismissed.

4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and went through the record with utmost circumspection.

5. The Act of 2007 has been enacted to provide for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognized under the Constitution and for matters connected therewith or incidental thereto.

6. The word "parent" has been defined in Section 2(d) of the Act of 2007 which includes step-father and step-mother. Respondent Smt. Surekha Bhoi, widow of late Shri Malikram Bhoi, aged about 76 years is the step-mother of the petitioner. The word "children" as per Section 2(e) of the Act of 2007 includes son, daughter, grand-son and grand-daughter but does not include a minor. The word "maintenance" has been defined in Section 2(b) of the Act of 2007 which includes provision for food, clothing, residence and medical attendance and treatment. Section 4 of the Act of 2007 provides for entitlement of maintenance by senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him against one or more of his children not being a minor and in the case of a childless senior citizen against his relatives who would inherit his property. By virtue of sub-section (3) of Section 4 the obligation of the children to maintain his or her parents extends to the need of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life. Section 5 inter alia provides for making application for maintenance by a parent if he is incapable, to the Tribunal which is empowered to make monthly allowance during the pendency of proceedings also. Maintenance has to be granted by the Tribunal from the date of order or if so ordered from the date of application for maintenance as the case may be. Section 9 provides that if the children or relative neglect or refuse to maintain a senior citizen being unable to maintain himself, a Tribunal may on being satisfied of such neglect or refusal, order such children to make a monthly allowance to the senior citizen which shall not exceed Rs. 10,000/- per month.

7. In an application filed by the respondent herein claiming maintenance from her son i.e. the petitioner herein, the Tribunal made a summary inquiry and found that the property left by her husband is being possessed by the petitioner herein and the respondent herein has been left alone and she is unable to maintain herself and therefore the Tribunal granted an amount of Rs. 10,000/- per month from the date of application considering the income of the petitioner who is a government teacher having sufficient income to maintain his step-mother.

8. The only submission that has been made on behalf of the petitioner is that the

petitioner is unable to make payment of the amount of maintenance i.e. Rs. 10,000/- per month which is on higher side and therefore it would be liable to be set aside.

9. The learned Tribunal has granted maintenance of Rs. 10,000/- per month based on the material available on record holding that the petitioner is a government teacher earning sufficiently to maintain his mother - respondent No.1 herein. The petitioner has not filed any document or record to demonstrate that his income is not sufficient to make payment of Rs. 10,000/- per month to the respondent or she is able to maintain herself and she is not in need of the amount of maintenance from the petitioner. Even otherwise, the amount of maintenance Rs. 10,000/- includes provision for food, clothing, residence and medical attendance and treatment, therefore looking to the price index prevailing at present, the said amount cannot be said to be on higher side or shockingly high requiring interference by this Court under Article 227 of the Constitution of India as such, the writ petition deserves to be dismissed.

10. This is the unfortunate litigation brought by son against his step-mother. In the scripture entitled Taittiriya Upanishad, it is said that when the students are graduating from their college, their teacher gives them the following parting message:

"May you be one for whom his mother is a Deva. May you be one for whom his father is a Deva. May you be one for whom a guest is a Deva. May you be one for whom his teacher is a Deva."

11. The whole idea is that we should respect, serve and worship our parents. This is a very unique teaching of our tradition.

12. In the Mahabharata, Book 12: Santi Parva: Mokshadharma Parva: section CCLXVI at p. 248, Bhishma said:

"... The mother is as the fire-stick with respect to the bodies of all men. She is the panacea for all kinds of calamities. The existence of the mother invests one with protection; the reverse deprives one of all protection. ... Able or disabled, lean or robust, the son is always protected by the mother. ... There is no shelter (protection against the sun) like the mother. There is no refuge like the mother. There is no defence like the mother. There is no one so dear as the mother. For having borne him in her womb the mother is the son's Dhatri. For having been the chief cause of his birth, she is his Janani. For having nursed his young limbs into growth, she is called Amva. For bringing forth a child possessed of courage she is called Virasu. For nursing and looking after the son she is called Sura. ..."

13. In Ramayana, at 2.111.9, in Rama's words to Vasishtha who accompanies Bharata to the forests for bringing back Rama to Ayodhya, it is said न सुप्रतिकरं तं मात्रा पित्रा च यत्कृतं (Na supratikaram tattva maatraa pitraa cha ytkrutam), meaning thereby that it is difficult for the children to repay the debt of what the mother and the father have done to bring them up.

14. Traditional norms and values of the Indian society has laid stress on providing care for the elderly and in our country, the mother is worshiped as the goddess Lakshmi (Goddess of prosperity) of the house. The Sruti (Taittiriya Upanishad) emphatically declares: "MATRU DEVO BHAVA" (Let thy mother be thy God).

15. In view of the aforesaid analysis and in view of the well renowned mandate of our scriptures, as noticed herein-above, the petitioner is duty bound to maintain his ailing and aged mother. The writ petition is accordingly dismissed with the above-stated observation with a cost of Rs. 2,000/- on the petitioner payable to the respondent herein.