



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2023

BEFORE

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT PETITION NO. 8505 OF 2023 (GM-FC)

BETWEEN:

MOHAMMED AMJAD PASHA,

...PETITIONER

(BY SRI. DILDAR SHIRALLI.,ADVOCATE)

AND:

1. SMT. NASEEMA BANU,

2. ABDUL REHIM AFAN

3. MOHAMED AZAM RAYAN

RESPONDENT NO.2 AND 3 ARE MINOR,
REPRESENTED BY THEIR NATURAL
GUARDIAN MOTHER PETITIONER NO. 1,

...RESPONDENTS

(BY SRI. IRSHAD AHMED K.,ADVOCATE FOR R1;
R2 & R3 ARE MINORS)





THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER IN C.MIS NO. 827/2019 DTD 16/12/2019 PASSED BY THE V ADDL. PRL JUDGE, FAMILY COURT AT BENGALURU VIDE ANNEXURE-E AND A WRIT OF MANDAMUS OR MODIFY THE ORDER IMPUGNED HEREIN OR GIVE DIRECTIONS TO MODIFY THE ORDER DTD 16/12/2019 IN C, MIS NO., 827/2019 PENDING ON THE FILE OF THE V ADDL. PRL JUDGE, FAMILY COURT AT BENGALURU IN THE ABOVE CASE.

THIS PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioner is the husband and first Respondent is his wife; they are an estranged couple. Respondents had filed Crl. Misc. Petition No. 827/2019 u/s.125 of the Cr.P.C.1973 seeking a monthly maintenance of Rs.27,000/- for herself & two children; the said petition having been favoured, learned V Addl. Prl. Judge of Family Court at Bengaluru vide order dated 16.12.2019 has directed the Petitioner-husband to pay collectively a sum of Rs.25,000/- per month as maintenance. The same is put in challenge in writ jurisdiction. Learned counsel appearing for the respondents opposes the same.



2. Having heard the learned counsel for the parties and having perused the Petition papers, this court declines indulgence in the matter inasmuch as, the marital relationship with the Respondent is not disputed and the legitimacy of the children is admitted. The submission of the learned counsel for the Petitioner that his client does not have sufficient means to pay maintenance is difficult to countenance. Holy Quran and Hadith say that it is the duty of husband to look after his wife & children especially when they are in disablement. No material is produced to show that the Respondent-wife is gainfully employed or that she has any source of income. Even otherwise the principal duty lies on the shoulders of petitioner. The vehement submission of learned counsel for the Petitioner that the amount is too much on the higher side, does not merit acceptance in these costly days when bread is costlier than blood.

3. The apart, the impugned order of maintenance is a product of exercise of statutory discretion; for



invoking writ remedy under Article 227 a strong case for the violation of rules of reason & justice has to be made out. In the instant case, there is not even a whisper for substantiating the said contention. Therefore, all aspects having been duly considered, this Court opines that the impugned order does not merit a deeper examination in the jurisdiction constitutionally vested under Article 227 supervisory jurisdiction under vide SADAHANA LODH vs. NATIONAL INSURANCE CO. Ltd., (2003) 3 SCC 524.

4. The second Respondent now aged 17 years is handicapped & the third Respondent now aged 14 years is suffering from kidney disease. The objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded vide RANJESH v. NEHA, (2021) 2 SCC 324.



In the above circumstances, this Writ Petition being devoid of merits is liable to be rejected and accordingly it is, costs having been made easy.

Sd/-
JUDGE

Bsv
List No.: 1 Sl No.: 33