IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No. 229 of 2024

Roshan Lal Saw, aged about 83 years, S/o Late Santosh Kumar Mahto, R/o Village & P.O. Kalyanpur, P.S. Barwadda, District Dhanbad ... **Appellant**

Versus

1. Nilam Kumari, aged about 35 years, w/o Late Suraj Kumar, Father-in-law Roshan Lal Saw;
2. Sarthak Kumar Saw, aged about 10 years, s/o Late Suraj Kumar, Grand father Roshan Lal Saw
3. Samar Kumar Saw, aged about 04 years, S/o Late Suraj Kumar, Grand father Roshan Lal Saw;

Respondent nos. 3 and 4 represented through their natural Guardina mother Nilam Kumari, all are R/o village & P.O. Kalyanpur, P.S. Barwadda, District Dhanbad at present R/o village & P.O Gomiya, P.S. Gomiya, District Bokaro

... **Respondents**

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANOJ PRASAD

For the Appellant :Mr Mahesh Tewari, Advocate
For the Respondents :Mr Rakesh Kumar Gupta, Advocate

Reserved on: 06/10/2026 **Pronounced on: 03 /11/2026**

***Per*: Manoj Prasad, J.**

1. Heard Mr Mahesh Tewari, learned counsel appearing on behalf of the appellant, and Mr Rakesh Kumar Gupta, learned counsel appearing on behalf of the respondents.

2. The present appeal has been filed by the Appellant/Opposite Party under Section 19(1) of the Family Court Act, impleading the Petitioner, namely Nilam Kumari, Sarthak Kumar Saw and Samar Kumar Saw, as Respondent. Of these, respondent nos. 2 and 3 are minors, represented by their mother and natural guardian, Nilam Kumari.

3. The appeal is directed against the judgment dated 11.06.2024, passed in Original Maintenance Case No. 403 of 2023, which was registered based on an application filed under Sections 19 and 20 of the Hindu Adoption and Maintenance Act, 1956, by the present respondents against the present appellant. The appellant is the grandfather of respondents Nos. 2 and 3 and the father-in-law of respondent No. 1, Nilam Kumari.

4. The facts of the case are that the present respondents filed an application under Sections 19 and 20 of the Hindu Adoption and Maintenance Act, 1956, stating that she is the widow of Suraj Kumar, the only son of the present appellant. Suraj Kumar is alleged to have died on 27.10.2020 at Hyderabad, Telangana, due to an illness. She further states that her marriage was solemnised on 06.12.2010 in accordance with Hindu rituals, and that she has two sons born out of wedlock with Suraj Kumar. After the death of Suraj Kumar, the present appellant's behaviour towards her and her children was not good. She and her children were not maintained by the present appellant. Attempts at settlement and reconciliation through the Panchayat were made but to no effect. Due to lack of maintenance, the children were also suffering in their proper education. It is also stated that there was no independent source of livelihood, nor did she receive any share in the deceased's estate, and hence the application for maintenance was filed, alleging inter alia that the present

appellant was receiving more than Rs.32,000/- per month as pension, had more than Rs.80,00,000/- in his fixed deposit, and had other sources of income, with the cumulative monthly income being about Rs.1,00,000/-. A prayer for monthly maintenance of Rs.75,000/- was made.

5. The present appellant, who was the respondent/opposite party before the Trial Court, appeared and contested the applicant's claim, admitting that Suraj Kumar was his only son, that the present respondent, namely Nilam Kumari, was Suraj Kumar's widow, and that the other respondents are Suraj Kumar's sons. It was further admitted that Suraj Kumar died at Asian Institute of Gastroenterology Pvt. Ltd., Hyderabad, Telangana, where he was under treatment. He alleges that after the husband's death, the present respondent, namely Nilam Kumari, behaved badly and stopped taking care of the aged father-in-law and mother-in-law, i.e., the present appellant and his wife. Despite all this, the present appellant was maintaining his daughter-in-law as well as his grandchildren, but solely on the instigation of others, this false case has been instituted. The receipt of a pension of about Rs.32,000/- is admitted, but it is stated that the wife of the present appellant is also dependent on him, is more than 80 years old, and the appellant is also aged more than 83 years. The appellant's claim that the respondent has Rs.80,00,000/- in fixed deposit is denied. It is stated that the

retirement benefits received by the appellant were used for the construction of a house at the paternal village, and that he does not have any income from agriculture, and thus a prayer is made to dismiss the application. It is also stated that his grandsons are students of Symbiosis School, Barwadda.

6. Based on the pleadings of the parties, the learned Principle Judge, Family Court, Dhanbad formulated the following issues for determination, which are as hereunder:-

(I) Is this suit maintainable in its present form?
(II) Whether the petitioner has valid cause of action for the suit?
(III) Whether the petitioners are entitled to get maintenance U/s 19/20 of Hindu Adoption and maintenance Act, 1956?
(IV) Whether the petitioner is entitled to get the relief as prayed for?

7. After the issues were framed, witnesses were examined on behalf of the parties. Three witnesses were examined on behalf of the present respondents, namely Nilam Kumari (the petitioner herself), Jai Prakash Prasad, and Nitin Nitesh Prasad. Certain photocopies of documents were brought on record and marked as X, X/1, and X/2 for identification. The respondent also examined one witness, namely Jitendra Prasad Saw. It appears that the respondent did not examine himself as a witness in this case.

8. After considering the respective pleadings and the oral and documentary evidence on record, the learned Principal Judge, Family Court, Dhanbad, observed that, admittedly, Roshan Lal

Saw, the present appellant, receives Rs.32,000/- as a government pension. The respondent has also admitted that his grandsons were studying at Symbioses School, Barwadda, and that he pays for their tuition, meeting the entire cost of their education. It is stated that the present appellant was also receiving Rs.18,000/- per month as rent from a shop. Under these circumstances, an order for maintenance was passed, directing the present appellant to pay Rs.7000/- per month to the present respondent no.1 and Rs.5000/- each to both the sons of respondent no.1, who are respondent nos. 2 & 3, until they attain the age of majority. The maintenance amount was ordered to be payable from the date of application, i.e. 24.09.2021, with the direction that the entire arrears of maintenance be paid within two months from the date of the order.

9. Aggrieved by this order, the present appellant has filed the present appeal, stating that the Trial Court failed to appreciate the ambit and scope of Sections 19, 20, 21 and 22 of the Hindu Adoption and Maintenance Act. It is also stated that the respondent failed to bring on record any documentary evidence showing the present appellant's earnings. The Learned Trial Court also failed to appreciate that the entire educational expenses of the children were borne by the present appellant, a fact which was not considered. The only source of livelihood of the present appellant is his pension, from which he has to

maintain himself and his wife, both of whom are above 80 years of age and are suffering from various old-age diseases. Apart from that, the agricultural land, which happens to be an ancestral property where respondent No. 1 was also a coparcener, cannot be the basis for the determination of any maintenance, and on these grounds, the impugned judgment of maintenance has been challenged. It is reiterated that an order for maintenance from pension cannot be passed.

10. Per contra, learned Advocate appearing on behalf of the respondents including the minor respondents who are represented through their mother, submits that the present appellant, being the *Karta* of the family, is the custodian of the entire ancestral property and other properties. They submit that the respondents have not received any share in the estate of her deceased husband. There is nothing on record to show that the respondents have any source of livelihood or that she was able to maintain herself. Considering these evidences on record and the fact that, though the original copy of the rent agreement was not brought on record, photocopy of the rent agreement showing a monthly rental of about Rs.17,000/- was brought on record, which rent agreement is in the name of the mother-in-law of the present respondent no.1 i.e., wife of the present appellant, the order for maintenance was passed under the Hindu Adoption and

Maintenance Act. The impugned judgment does not warrant any interference, and prayer is made to dismiss the appeal.

FINDINGS

11. Having heard the learned advocate for the parties and the rival contentions raised by them, which now fall for determination by us, we propose the following point for determination in this case.

> ***Whether the respondent-petitioner was entitled to maintenance under the Hindu Adoption and Maintenance Act from her father-in-law.***

12. Before advertizing to the facts of the present case and the mandate of law, it would be relevant to mention that efforts at settlement were made several times but to no effect. Before this Court, a supplementary affidavit has been filed by the present appellant stating his economic condition, with the pension book as an annexure. This document is not of much relevance, as the appellant has admitted that he receives a monthly pension of about Rs.32,000/-. The other document filed along with the supplementary affidavit is the bank account statements showing payment of Rs.15,000/- to Ms. Nilam Kumari. A counter-affidavit has also been filed by respondent nos. 1, 2 & 3, with a chart showing payments made by the present appellant, indicating a total of Rs.1,99,000/- paid by the present appellant to the respondents out of the payable amount of Rs.8,33,000/-, and thus an outstanding dues of Rs.6,34,000/- still exist. Certain

documents have also been filed along with this counter-affidavit, including an agreement/lease deed in respect of a shop. The lease deed is executed by Smt. Uma Devi w/o Roshan Lal Saw (lessor), in favour of Ram Bihari Gupta (lessee). This agreement is for a period of 15 years commencing from July 2017, at a rent of Rs.17,000/- per month, with a provision for enhancement of 10% after every five years. Since 2022, the rent in respect of the said shop must have become payable at Rs.18,700/-.

13. Section 19 of the Hindu Adoption and Maintenance Act provides for the maintenance of a Hindu wife by her father-in-law upon the death of her husband, and Section 20 of the said Act provides for the maintenance of children and aged parents. Dependents have been defined in Section 21 of the said Act, and Section 21 (iv) includes his or her son, ***the son of his predeceased son,*** or the son of a predeceased son of his predeceased son, so long as the son is a minor. Section 21 (vii), further defining dependents, includes ***any widow of his son or of a son of his predeceased son***, so long as she does not remarry.

14. Section 22 of the said Act contains the provisions for the maintenance of dependents, providing that the heirs of a deceased Hindu are bound to maintain the dependents of the deceased out of the estate inherited by them from the deceased. A composite reading of these provisions undoubtedly creates a

duty on a Hindu to maintain the widow daughter-in-law who does not have any independent source of livelihood to maintain herself, and the duty extends to maintaining the dependents where the son of a predeceased son is also dependent.

15. Recently, in a judgment of the Hon'ble Supreme Court in ***Kanchan Rai Vrs. Geeta Sharma & Ors.,*** reported in ***2026 INSC 54, in a Civil Appeal arising out of S.L.P (C) Nos. 1544-1545 of 2026 and 1737 of 2026,*** the ambit and scope of the definition of dependent and the question of whether a daughter-in-law is entitled to be maintained from the estate of her father-in-law after the death of the father-in-law were discussed. The Hon'ble Supreme Court discussed the ambit and scope of Section 22 as to how and from where the dependents of the deceased are entitled to maintenance. Further, the widow of the son and the widow of the predeceased son, as contained in Sections 19, 20 & 22 of the Act, were also discussed.

16. For the sake of convenience, paragraphs 22, 23, 24 & 25 of the judgment are quoted herein under: -

> *"22. In view of the language so used in Section 21 (vii) of the Act and guided by the settled principles reiterated above, there is hardly any scope to interpret that the words "any widow of his son" used therein would mean "widow of his predeceased son" only. The courts cannot add or subtract any word from the text of the statute. The provisions of the statute cannot be re-written by the courts by assuming or inferring something which is not implicit from the plain language of the statute.*
>
> *23. Even otherwise, any such restrictive interpretation would fail the test of constitutional validity under Article 14 of the Constitution. The classification sought to be made*

between widowed daughters-in-law based solely on the timing of the husband's death, namely, (a) those whose husbands died during the lifetime of the father-in-law, and (b) those whose husbands died after him; is manifestly unreasonable and arbitrary. Such a classification bears no rational nexus with the object and purpose of the Act, which is to secure maintenance to dependants who are unable to maintain themselves. In both situations, the women are similarly situated in so far as the object of the Act is concerned, having suffered widowhood, being without spousal support, and facing comparable financial vulnerability. Denial of maintenance to one category based on a fortuitous circumstance beyond their control is manifestly arbitrary and violative of the guarantee of equality before law under Article 14 of the Constitution.

24. Any interpretation contrary to one opined above, would also infringe upon Article 21 of the Constitution, which guarantees the right to life with dignity. The right to life has been judicially expanded to include the right to livelihood and basic sustenance. Denying maintenance to a widowed daughter-in-law from the estate of her deceased father-in-law on a narrow or technical construction of the statute would expose her to destitution and social marginalization, thereby offending her fundamental right to live with dignity. The provisions of the Act must, therefore, be read purposively and in conformity with constitutional values, so as to advance social justice and protect the dignity of vulnerable dependants rather than defeat it.

25. Section 4 of the Act has an overriding effect but it does not erase away fundamental principles of Hindu law particularly where some doubt is raised about the codified provisions. The Hindu law specially Manu Smriti vide Chapter 8, verse 389 says:

"न माता न पिता न स्त्री न पुत्रस्त्यागमर्हति।

त्यजन्नपतितानेतान राज्ञा दण्ड्यः शतानि षट"।।

No mother, no father, no wife, and no son deserves to be forsaken. A person who abandons these blameless (relatives) should be fined six hundred (units) by the king. This verse emphasizes duty of the family head to support female family members."

17. Under the facts of the present case, the only defence taken by the appellant is that the agricultural land or the other ancestral lands, where the husband of the respondent no.1 was also a co-

parcener, could not be used for any gainful purposes because the appellant himself is aged about 84 years and suffering from age-related illnesses. Similarly, his wife, who is also more than 80 years of age, is also a dependent upon him.

18. Be that as it may, the fact remains that the pious responsibility of maintaining the widowed daughter-in-law and the grandchildren does not get exonerated on account of the age of the present appellant. Nothing rebuts the claim that a monthly rental of more than Rs.18,000/- is paid to the present appellant or his wife, leading to a cumulative monthly income of more than Rs.50,000/-. Therefore, in view of the statutory mandate contained under the provisions of the Hindu Adoption and Maintenance Act, the appellant was under a legal obligation and pious duty to maintain his widowed daughter-in-law and grandchildren who are dependents.

19. As to the quantum of maintenance, it is not disputed that the present appellant's monthly pension exceeds Rs.32,000/-, and the rent agreement shows a monthly income of more than Rs.18,000/- in the name of the present appellant's wife. Thus, the cumulative admitted income exceeds Rs.50,000/-. The learned Principal Judge, Family Court, Dhanbad, has passed a maintenance order for a total of Rs.17,000/- per month, i.e., Rs.5,000/- each for the two minor children until they attain

majority and Rs.7000/- per month for the widowed daughter-in-law.

20. This Court therefore concludes that the respondents, who were entitled to maintenance under the Hindu Adoption and Maintenance Act, are also entitled to the quantum of maintenance awarded by the Principal Judge, Family Court, Dhanbad, which is not unreasonable. The point for determination, as formulated by this Court, is therefore answered in favour of the respondents and against the appellant.

21. As per the counter-affidavit filed by the respondents, it appears that the arrears of maintenance have not been paid to date, despite the record showing that no order of stay was passed by this Court. Under these circumstances, if the arrears of maintenance have not been paid to date, they shall be paid forthwith, i.e., within a maximum of two months from the date of this order.

22. We therefore find no merit in this appeal, and the same is accordingly dismissed; however, without costs.

23. Pending I.A., if any, do not survive and accordingly is disposed of.

(M.S. Sonak, C.J.)

(Manoj Prasad, J.)

November 03, 2026
Anjali/-
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