



2025:CGHC:18288-DB

Reserved on 28.02.2025

Pronounced on 23.04.2025

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR
FA(MAT) No. 179 of 2023

Smt. Neelu W/o. Late Omkar, Aged About 28 Years, R/o. Quarter No. 05/05 B Type, C.H. M Colony, Amakherwa, Manendragarh, Thana And Tashil Manendragarh, District Manendragarh Chirmiri Bharatpupr Chhattisgarh.

... Appellant

versus

Smt. Urmila Devi W/o. Late Bhagwan Das, Aged About 68 Years By Caste Kushwaha, R/o. Ward No. 11, Welfare Colony, Khongapani, Thana Jhagrakhand, Tahsil Manendragarh District Manendragarh Chirmiri Bharatpur Chhattisgarh.

... Respondent(s)

For Appellant	:	Mr. Parag Kotecha, Advocate
For Respondent(s)	:	Ms. Priyanka Mehta, Advocate

DB: Hon’ble Smt Justice Rajani Dubey
Hon’ble Shri Justice Sachin Singh Rajput

C A V Judgment

Per Sachin Singh Rajput, J

1. Parties herein shall be referred to as the appellant/ daughter-in-law and respondent/ mother-in-law.
2. The instant appeal under Section 19 (1) of the Family Court Act, 1984 has been filed by the appellant/daughter-in-law being aggrieved by the impugned judgment and decree dated 09.05.2023 (Annexure A/1) passed by Judge, Family Court, Manendragarh, District- Koriya Now District Manendragarh Chirmiri Bharatpur (C.G.) in Civil Suit No. 144-A/2022 whereby the application under Section 22 of the Hindu Adoption and Maintenance Act, 1956 (hereinafter referred to as the “Act of

1956”) filed by the respondent/mother-in-law was allowed.

3. The admitted facts of the case are that husband of respondent/ mother-in-law Bhagwan Das died in the year 2000 who was an employee in SECL Hasdeo Area. After his death, her elder son Omkar got compassionate appointment in place of his father and he too is dead as of now. After the death of Omkar, the appellant/daughter-in-law got compassionate appointment who is currently working as a general laborer in Central Hospital, Manendragarh. Facts of the case are that after the death of husband of respondent/ mother-in-law, she was living under the care of her elder son Omkar and after his death, his wife i.e. the appellant/daughter-in-law was given compassionate appointment by the colliery management. Before receiving the compassionate appointment, the appellant/ daughter-in-law had sworn an affidavit on 10.06.2020 giving the family details mentioning the respondent/mother-in-law as the second dependent and declared that she will maintain her if she got compassionate appointment. However, after getting compassionate appointment, she started living with her parents by abandoning the respondent/mother-in-law. As her financial condition because of act of appellant/daughter-in-law living with her parents, the financial condition of the respondent/mother-in-law worsened, which made her file a complaint before Personnel Department, Hasdev Area, demanding maintenance of Rs.10,000/- per month from the appellant/daughter-in-law. Being personally present at the time of hearing of the complaint, she was not inclined to give the maintenance amount as sought for by the respondent/mother-in-law. Thereafter the respondent/ mother-in-law filed an application before the Family Court, Manendragarh with a plea that she being an old woman and unable to perform any work and even unable to move, maintenance of Rs.20,000/- was requested for out of the salary of the appellant/daughter-in-law amounting to Rs.50,000/-. This apart, an amount of Rs.50,000/- was also prayed for towards litigation expenses.
4. Appellant/ daughter-in-law however has denied all the averments except the admitted ones. She has stated that the respondent/mother-in-law is being maintained by her another son Umesh Kushwaha who earns Rs.50,000/- per month by performing

online job. The respondent/ mother-in-law is also stated to earn Rs.3000/- as pension apart from an annual income of Rs.1,00,000/- from agriculture. The husband of the appellant/daughter-in-law is stated to have taken a loan for purchasing the agriculture land and the remaining one amounting to Rs.3,00,000/- is being repaid by her after getting the compassionate appointment. Her husband is also stated to have taken two insurance policies making the respondent/ mother-in-law as nominee and after his death, she had got an amount of 7 lacs rupees as an accidental claim. Lastly she pleaded that the respondent/mother-in-law has sufficient means of maintaining her and looking to the amount of Rs.26,000/- which she gets as monthly salary, and also for the fact that she has a six years old daughter to be maintained by her she is not liable to pay any maintenance to her.

5. On the basis of pleadings of the respective parties, the trial Court framed the following issues:-
 1. Whether the plaintiff is unable to maintain herself?
 2. Whether the defendant is liable to maintain the plaintiff, if yes, then what amount?
 3. Relief and cost?
6. After hearing the parties, learned Family Court by the judgment and decree assailed in this appeal, has granted maintenance of Rs.10,000/- per month in favour of the respondent/ mother-in-law.
7. Learned counsel for the appellant vehemently argued that the judgment and decree passed by the learned trial Court is wholly erroneous, illegal and contrary to the principles of law and therefore, it is liable to be set aside. He submits that without appreciating the material on record learned family Court has passed the impugned judgment and decree granting maintenance of Rs.10,000/- per month in favour of respondent/ mother-in-law, particularly looking to the fact that her own salary is very meagre, that she has a small daughter to be maintained by her, and that the respondent/ mother-in-law is very well being looked after by her another son having handsome salary. He submitted the application under section 22 of the Act of 1956 is not maintainable before the Family Court as the appointment obtained on

compassionate ground under the scheme would not be within the meaning of estate. To buttress this, he placed reliance on the judgment of this Court in case of **Krishna Bai Vs. Priya Thakre** reported in **AIR 2020 Chhattisgarh 170**, **Basanti Bai Vs. Ajit Kumar Bhatt** reported in **AIR 2023 Chhattisgarh 63**. He thus prayed for setting aside the impugned judgment and decree by allowing the appeal.

8. Learned counsel for the respondent supports the judgment and decree impugned and submits that the respondent is aged about 68 years, suffering from various diseases, pension amount of Rs.800/- being received by her is too meager, the maintenance of Rs. 10,000/- cannot be said to be on the higher side and the appellant/ daughter-in-law bound to pay that particularly looking to the fact that she had taken her responsibilities over her shoulders after getting the compassionate appointment, by swearing an affidavit.
9. Heard learned counsel for the parties and perused the material available on record.
10. Factual scenario in this case is more or less not in dispute. However, the core issue around which this case revolves is to whether the respondent/mother-in-law is entitled to receive the maintenance from the respondent/daughter-in-law by filing an application under section 22 of the Act of 1956.
11. Identical issue came up for consideration before Division Bench of this Court in case of **Bharat Lal Sharma and another Vs. Smt. Mithlesh Sharma @ Priyanka Sharma** reported in **2017 SCC OnLine Chh 1575**. In that case, this Court has considered the question as to whether compassionate appointment allowed in favour of the respondent/daughter-in-law would form part of the 'estate of the deceased' so as to entitle the deceased's parents, the appellants therein, to obtain maintenance from the respondent therein under Sections 20 read with Section 22 of the Act of 1956. Placing reliance on the judgment of the Hon'ble Supreme Court in cases of **Jodh Singh Vs. Union of India** {(1980) 4 SCC 306}, **Smt. Violet Issac and Others Vs. Union of India and Others** {(1991) 1 SCC 725} and **Nitu Vs. Sheela Rani and Others** {(2016) 16 SCC 229} held as under:-

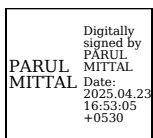
“10. Applying the law laid down by the Supreme Court in the matters of Smt. Violet Issac, Jodh Singh and Nitu Vs. Sheela Rani (Supra) we find

that compassionate appointment is never available to a Government servant during the tenure of his service. It is a status or benefit which a definite class or dependents of the deceased are entitled for under the executive policy of the Government, therefore, neither the deceased can dispose of this benefit through a will nor the said facility of compassionate appointment can be treated as estate of the deceased. Therefore, the respondent being a recipient of the compassionate appointment, which is not part of the estate of the deceased, is not obliged in law to maintain the appellants from the salary which she is receiving through compassionate appointment. The respondent may be morally liable and duty bound to maintain her parents-in-law but the Court cannot compel her to grant such maintenance under Section 22 (1) of the Act. It was not proper on the part of the respondent to have neglected her parents-in-law who have lost their only son. However, we are helpless in this Appeal to come to the appellants rescue. Their remedy may lie elsewhere either by way of invoking writ jurisdiction or otherwise, for which the appellants would be at liberty to prosecute such remedy as is available to them.”

12. The proposition of law laid down in case of **Bharat Lal Sharma** (Supra) has been reiterated in cases of **Krishna Bai** (Supra) and **Basanti Bai** (Supra). In light of the settled legal position, we do not see any reason to take a different view. In this view of the matter the impugned judgment and decree is liable to be set aside and hereby set aside. However, the respondent will be at liberty to workout her remedy available under law. Order accordingly.
13. Appeal thus allowed. No order as to cost.
14. Preparation of decree to follow accordingly.

Sd/-
(**Rajani Dubey**)
Judge

Sd/-
(**Sachin Singh Rajput**)
Judge



Parul