

IN THE HIGH COURT OF JHARKHAND AT RANCHI**First Appeal No.307 of 2023**

1. Surendra Das, aged about 67 years, son of late Moti Das
2. Uttam Kumar Das, aged about 33 years, son of Surendra Das,
Both are residents of Village-Bariyabandhi, PO-Devsangh, PS-Deoghar, District-Deoghar, Jharkhand

..... Respondents/Appellants**Versus**

1. Anita Das, wife of late Jyotish Kumar Das, daughter of Sri Kriplani Das.
2. Ritesh Kumar, son of Anita Das and late Jyotish Kumar Das
3. Sonam Kumari, daughter of Anita Das and late Jyotish Kumar Das.
Sl. Nos. 2 and 3 both are minors, being represented through their natural guardian/mother Anita Das (respondent no.1).
All are resident of Village-Bariyabandhi, PO-Devsangh, PS-Deoghar, District-Deoghar, Jharkhand. Presently residing at New Colony, Pokhartalla, Mihijam, PO & PS-Mihijam, District-Jamtara, Jharkhand

... Petitioners/Respondents

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE RAJESH KUMAR

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| For the Appellants | : Mr. Arvind Kumar Choudhary, Advocate |
| For the Respondents | : |

C.A.V on 05.05.2025**Pronounced on 10/06/2025****Per Sujit Narayan Prasad, J.**

1. The instant appeal under section 19(1) of the Family Courts Act, 1984 is directed against the order dated 11.09.2023 passed in Original Maintenance Case No.58 of 2022 by the learned Principal Judge, Family Court, Jamtara (in short-Family Judge) whereby and whereunder the appellants herein are directed to pay amount of Rs.3000/- per month to the respondent no.1 and Rs.1000/- per month each to the minor children, (the respondent nos.2 and 3 herein) as maintenance allowance from the date of filing of Original Maintenance Case No.58 of 2022.

Factual Matrix

2. The brief facts of the case as per the pleadings made in the plaint having been recorded by the learned Family Judge, needs to be referred herein as:

- (i) The case of the petitioners (respondents herein) in nutshell is that both the parties are Hindus. The petitioner no. 1- Anita Das (respondent no.1 herein) is the legally married wife of late Jyotish Kumar Das. Her marriage with the said Jyotish Kumar Das was solemnized in the year 2007 as per Hindu Rites and Customs and out of their wedlock two children were born, the first one is male child aged about 13 years, namely, Ritesh Kumar and second one is a female child, namely, Sonam kumari aged about 3 years.
- (ii) The respondent no.1(appellant no.1) is the father-in-law of the petitioner no.1 and the respondent no.2(appellant no.2 herein) is her *devar*. All the respondents and his other family members are living in the same house in joint mess. After the marriage the petitioner no.1 went to her sasural at village Bariarbandhi and started residing there. She was kept well for one month but thereafter the respondent started demanding Rs. 50 thousand from the petitioner no.1 for purchasing motorcycle. On information the father of the petitioner no.1 gave Rs. 25 thousand and requested to keep her well. Two years later they again started torturing the petitioner no.1 by demanding Rs. 1

lac and when the demand was not fulfilled the respondent started torturing her in various ways.

- (iii) Unfortunately, on 24.01.2022 the husband of the petitioner no.1 died and thereafter the respondents became more violent and started treating the petitioner like maid servant. They neither provided proper food nor medicine. The husband of the petitioner no.1 had constructed two bed rooms, one varandah, attached staircase and toilet bathroom for the petitioner no.1 who was living there but after the death of her husband the respondents ousted her from that house and in order to grab the entire property of her husband they started creating trouble. They dishonestly took away her passbook, Adhaar card, PAN card, death certificate of her husband kept in almirah. When the petitioner objected the same the respondents mercilessly assaulted her on 06.05.2022 at about 8:00 PM and turned her out with both the minor children from their house.

- (iv) Thereafter, the petitioner no.1 came in her father's house at New Colony, Pokhartalla, Mihijam and narrated the entire incident to her family members. The father of the petitioner and villagers tried to settle the matter but the respondent did not come for settlement and thereafter the petitioner no.1 filed a complaint case before the Court of SDJM, Jamtara bearing PCR Case No. 802 of 2022 under sections 323, 498A, 379, 504, 506/34 of the IPC which is

still pending. The respondents are mason of wall putty and earn Rs. 1000/- per day from the same. The petitioner no. 1 and the respondents have joint household properties at Barirbandhi and the respondents have captured the same and turned out the petitioners from their house. They have also captured all landed properties of mouza Bariarbandhi, Jogidih, Dangar and Koriyasa and they produce 500 mounds of paddy per years valued at Rs. 2 lac. The respondents are not returning her husband's passbooks, Adhaar card, PAN Card, death certificate, medical certificate, L.I.C paper etc. They are not maintaining the petitioner and her children, hence, she is entitled to get maintenance of Rs. 10,000/- per month for herself and Rs. 5000/- per month each for the maintenance of her both minor children.

3. It is evident from the factual aspect as narrated hereinabove that the petitioner no.1 is living with her minor children in her *mai ke* (parental house) after death of her husband and she is facing difficulty in maintaining herself as well as her two minor children.

4. In support of her case, altogether five witnesses have been examined on behalf of the respondents-petitioner. The petitioner no.1 (respondent no.1 herein) has examined herself as PW1 and produced some documents to show that the appellants herein have sufficient income to pay maintenance to her and her minor children which are Ext.1-Internet copy of Khatian of Khata No.63, Ext.2-attested copy of

Jamabandi No.62, Ext.1/2, attested copy of Jamabandi No.17 and Ext.1/3-Attested copy of Jamabandi No.17 and 24.

5. On the other hand, the appellants have examined three witnesses, the appellant no.1 has examined himself as DW3 and also produced some documents to rebut the case of the petitioner no.1 which have been marked “X” and ‘X/1’ for identification.

6. On the basis of the testimony of the witnesses and after considering the relevant documents, the learned Family Judge has allowed the maintenance case and ordered the respondents(appellant herein) to pay an amount of Rs.3000/- per month to the petitioner no.1 and Rs.1000/- per month each to the minor children as maintenance allowance from the date of filing of Original Maintenance Case No.58 of 2022.

7. The said order has been challenged by the appellants-respondents by filing the instant appeal.

Argument on behalf of the appellants:

8. On behalf of the appellants, the following grounds have been taken to assail the impugned order:

(i) It has been contended that the order impugned is illegal and suffers from an error and, as such, is liable to be set aside.

(ii) It has been contended that the learned trial Court has failed to consider the evidence adduced by the appellants and viewed the case from a wrong angle of vision and thereby gave much weightage upon the evidence adduced

by the petitioners, and as such, the impugned judgment is fit to be set aside.

(iii) It has been contended that the learned trial Court has ignored and overlooked the factual aspect of the case while passing the impugned order.

(iv) It has been contended that the learned trial Court has failed to consider that the petitioners are not entitled for maintenance from the appellants under Section 19 and 22 of the Hindu Adoption and Maintenance Act, 1956.

(v) It has been contended that the learned trial Court has failed to appreciate that the appellant no.2 is not entitled to pay any maintenance to the respondents as per Section 19 of the Hindu Adoption and Maintenance Act, 1956.

(vi) It has been contended that the learned trial Court before passing the impugned order while allowing the maintenance in favour of the petitioners has failed to appreciate the factual aspect that the appellant no.1 is an old and physically handicapped person who is not in a position to pay any maintenance.

(vii) It has been contended that the learned trial Court has failed to appreciate the evidence of DW-3 Surendra Das (appellant no.1 herein) with regard to the amount received in the account as well as the amount of L.I.C before passing the impugned order.

(viii) It has been contended that the learned trial Court has failed to appreciate that the appellant no.1 has no such

income as alleged by the respondent no.1 and is not in a position to pay monthly maintenance of Rs. 5,000/- to the petitioners.

(ix) It has been contended that the learned trial Court has failed to appreciate that the appellants were always ready and willing to provide all necessary amenities to the petitioners for their stay in their house.

(x) It has been contended that the learned trial Court has failed to appreciate that the petitioners had lodged the present case in order to harass and blackmail the appellants, who are father-in-law and younger brother-in-law of the petitioner no.1 (respondent no.1 herein).

(xi) It has been contended that the learned trial Court has failed to appreciate that the lands are jointly recorded in the name of Bhikhu Mahra, Etwari Mahra and Harkhu Mahra and the income from the share of the appellants is not sufficient to provide monthly maintenance of Rs. 5,000/- to the petitioners.

(xii) It has been contended that the learned trial Court has failed to appreciate that the appellants are always ready to settle the dispute with the petitioners.

(xiii) It has been contended that the learned trial Court has failed to consider the evidence of the witnesses as well as the documents produced by the appellants before passing the impugned order.

(xiv) It has been contended that the learned trial Court has failed to consider that there are major and vital contradiction in the evidence of the petitioners and as such, they are not entitled for any maintenance.

(xv) It has been contended that the learned trial Court has misconstrued the provisions of Section 19 and 22 of the Hindu Adoption and Maintenance Act before passing the impugned order and the impugned order was passed without properly assessing the income of the appellants from the assets.

9. The learned counsel based upon the aforesaid ground has submitted that the impugned order, therefore, suffers from an error and, as such, not sustainable in the eyes of law.

Analysis:

10. It needs to refer herein that notices were sent to the petitioners (respondent nos.1 to 3 herein) vide order dated 13.12.2024 passed by a co-ordinate Bench of this Court. It appears from the service report that the notices have duly been served upon the petitioner no.1 (respondent no.1 herein) who herself has received the notice on behalf of herself as well as her minor children but inspite of that she did not choose to appear before this Court.

11. We have heard the learned counsels appearing for the appellants, gone through the impugned order, the testimonies of the witnesses recorded and the documents exhibited therein.

12. In the proceeding before the learned Family Judge, upon issuance of notice to the appellants herein they were appeared in the

proceeding and filed a show-cause denying all the allegations and the claim made by the petitioner no.1 for maintenance of herself as well as for her minor children.

13. In her examination-in-chief on oath, the widow/petitioner no.1 has deposed about the factum of marriage with the son of the appellant no.1 and out of the said wedlock birth of two minor children. She has stated that after one month of the marriage her in-laws started demanding an amount of Rs.50,000/- for purchase of motorcycle but her father gave them Rs.25,000/- at that time. Thereafter she stayed in her sasural for about two years but soon after that they again started demanding Rs. One lac and non-fulfillment of the same the petitioner no.1 was subjected to torture. In the meantime, two children were born from the wedlock one son, namely, Ritesh Kumar aged about 13 years and second a daughter, namely, Sonam Kumari, aged about 3 ½ years. She has deposed that her husband died on 24.01.2022 and thereafter the appellants started torturing her. She deposed that her husband in his life time had constructed a house of two bed rooms, varandah, toilet and bathroom in which she was residing but after his death, the appellants with a view to grab the entire property captured the said house and they compelled her to leave the house with her minor children. Thereafter, she left her matrimonial house and came to her father's house along with the minor children. Her father and other family members tried their level best to pacify the matter but the appellants did not agree for the same due to which she has filed a complaint case being PCR Case No.802 of 2022 under sections 323, 498A, 379, 504, 506/34 of the IPC against the appellants which is pending.

She has deposed that she has no source of income to maintain herself and her minor children whereas the appellants are having sufficient income as the appellant no.1 is doing the work of a mason and he earns Rs.1000/- per day. Besides, the appellants produce 500 mounds of paddy from their agricultural field which is valued at Rs.2 lakh per annum. Therefore, she has claimed Rs.10,000/- per month for herself and Rs.5,000/- per month each to her both children.

During cross-examination, she has stated that after death of her husband she started residing at the house of her father. She further stated that she does not know the khatyan of the landed properties of the father-in-law but stated that her father-in-law has joint landed properties among his three brothers. She further stated that if her father-in-law gave 1/5th share of his landed property, she will take it.

14. P.W2-Bijay Kumar Das is the brother of the widow/petitioner no.1 who has fully corroborated the evidence of the petitioner no.1. He has supported the factum of marriage and birth of two children from the said wedlock. This witness has stated that the husband of her sister had constructed a room but the said was captured by the in laws of her sister. He further stated that his sister came to her *maike*. He has deposed that when the appellants did not agree for compromise, her sister lodged a case against them. He has deposed that her sister has no source of income of her own to maintain herself and her two minor children whereas the appellants produce 500 mounds of paddy per annum from the joint landed properties valued at Rs.2 lakh.

During cross-examination this witness has stated that father-in-law of her sister (appellant no.1) has given a piece of land for construction of a house (PM Awas) in the name of the petitioner no.1.

15. PW3-Ritesh Kumar is the son of the petitioner no.1 (respondent no.1) and he has admitted that he is residing at the house of his maternal grand-father. He has deposed about the death of his father and cruelty and torture meted out to his mother (petitioner no.1) at the hands of the appellants. He has deposed that the appellants have grabbed the entire landed property and they drove his mother from the house. He has supported the version of the petitioner no.1 that she has no income of her own to maintain herself along with him and his sister. He has deposed that the appellants produce 500 mounds of paddy annually from the joint landed properties valued at Rs.2 lakh.

During cross-examination this witness has stated that he is not studying in the school. He has further stated that his mother has received Rs.3-4 lakhs from the L.I.C on death of his father but the appellants have not given any share from the same.

16. PW.4 Kriplani Das is the father of the petitioner no.1 who has also fully supported the evidence of the petitioner on the point of torture meted out to the petitioner no.1 by the in laws and capture of house and landed property. He has deposed that the petitioner no.1 was driven out from her in laws' house by her in laws and she is residing with him. He has deposed that when the in-laws did not agree for compromise, her daughter lodged a complaint case against them. He has further stated that the petitioner no.1 has no source of income to maintain herself as well as

her minor children whereas the appellants have landed property from which they earn Rs.2 lakh per annum by producing 500 mounds of paddy.

In cross-examination, he has stated that his daughter is residing at his house.

17. PW5-Rita Devi is the sister of the widow/petitioner no.1 who has also fully corroborated her evidence. She has deposed about the factum of marriage, birth of children and cruelty and torture meted out to her sister at the hands of her in-laws. This witness has also supported the fact that the petitioner no.1 has no source of income to maintain herself as well as her minor children whereas the appellants have landed property from which they earn Rs.2 lakh per annum by producing 500 mounds of paddy.

During cross-examination, this witness has stated that the petitioner no.1 is residing in her father's house and she has no knowledge regarding the landed properties of her sister.

18. On the other hand, to rebut the case of the petitioners, the appellant no.1, as DW3, has deposed that his landed property was sold with the consent of all the shareholders and he had got Rs.9 lakh which was kept by his son and deposited in the bank account of the petitioner. He has deposed that after the death of his son, the petitioner/respondent no.1 went to her *maike* and filed a false case against them. He has deposed that he is 65 years old disables person and has no means of livelihood whereas his younger son (appellant no.2) is a student and the entire family is dependent on the agriculture and he has no other means of livelihood. He further stated that if the petitioners reside in his house, he would have

no objection and he would try to maintain the petitioner no.1 and to make arrangement for proper education of her children.

During cross-examination this witness has admitted that the petitioner no.1 is residing at the house of her father along with her two children and he is not maintaining them. He has stated that he has a pucca house with two rooms, one verandah of his eldest son and likewise two rooms and one verandah of his younger son in which he lives both sides. He has denied the suggestion that he produces 500 mounds of paddy annually from agricultural land. He has further denied that he has captured the entire landed properties of his elder son (petitioner's husband) and drove the petitioner out from the house.

19. DW2-Prakash Das has admitted the factum of marriage of the petitioner no.1 with the elder son of DW3 and birth of two children. He has deposed that after death of her husband, petitioner no.1 went to her father's house. He has deposed that DW2 (appellant no.1) is 65 years old disabled person and dependent upon the agriculture for his livelihood and his younger son, namely, Uttam Kumar Das is a student. He has stated that DW2 is ready to give a share of his landed property and a portion of house to the petitioner and he is willing to give proper education to the minor children.

During his cross-examination, this witness has stated that the petitioner is not doing any work and the landed property is joint one among the petitioner's husband, her father-in-law and *devar*.

20. DW1- Kanti Das has also admitted the marriage of the petitioner with Jyotish Kumar about 16 years ago and delivery of two children from their wedlock. He has further stated that after the death of her husband in

the year 2022, the petitioner went to her father's house and filed the present suit. The respondent no 1(appellant no.1) is 65 years old and is disabled and dependent on the agriculture for livelihood and the respondent no.2(appellant no.2) is student. The respondent is ready to give the share in landed properties as well as in the house to the petitioner and he also wants the proper education of the children. He has no other source of livelihood and is fully dependent on agriculture for his livelihood.

In cross-examination he has admitted that the petitioner is presently residing at the house of her father along with her minor children and the landed properties of her husband is under the occupation of the respondents and they are not giving any maintenance to the petitioners.

21. It is evident from the evidence of the witnesses that the petitioner is living in her *maike* with her minor children and the appellants have not maintained them having the landed property after death of her husband. It also appears that the minor children of the petitioner no.1 is not getting proper education as would be evident from the evidence of PW3 (minor son of the petitioner no.1) who himself has deposed that he does not study in school. It appears that the appellants herein got a handsome amount from the L.I.C. after death of the husband of the petitioner no.1 and they do not agree to share a proportionate amount to the petitioner no.1.

22. It is not in dispute that the appellants have landed property whereas the petitioner no.1 has no source of income and she is fully dependent upon her father-in-law to maintain herself and her minor children.

23. The short question, which calls for decision in the present controversy, relates to the right of widowed daughter-in-law and her minor son and daughter to claim maintenance from the father-in-law.

24. At this juncture it needs to refer herein that under the statutory scheme of Hindu Adoptions and Maintenance Act, 1956, a widowed daughter-in-law is entitled to maintenance from her father-in-law under Section 19 thereof. The relevant provision, casting statutory obligation on the father-in-law is extracted herein below:

"S.19. Maintenance of widowed daughter-in-law- (1) A Hindu wife, whether married before or after the commencement of this Act, shall be entitled to be maintained after the death of her husband by her father-in-law.

Provided and to the extent that she is unable to maintain herself out of her own earnings or other property or, where she has no property of her own, is unable to obtain maintenance-

(a) from the estate of her husband or her father or mother, or

(b) from her son or daughter, if any, or his or her estate.

(2) Any obligation under sub-section (1) shall not be enforceable if the father-in-law has not the means to do so from any coparcenary property in his possession out of which the daughter-in-law has not obtained any share, and any such obligation shall cease on the remarriage of the daughter-in-law."

25. A rational interpretation of Section 19 of the Act of 1956 would show that the statutory obligation on the father-in-law to maintain the daughter-in-law would arise when the conditions exhaustively enumerated in sub-section (1) of Section 19 of the Act of 1956 are fulfilled. While the first part of sub-section (1) provides that a Hindu wife shall be entitled to

maintenance after the death of her husband, by her father-in-law, such right is available and limited to the extent when she is unable to maintain herself out of her own earnings or other property or, where she has no property of her own, is unable to obtain maintenance either from the estate of her husband or her father or mother, or from her son or daughter, if any, or his or her estate. It is only when all other sources of getting maintenance and earnings are not available that there arises statutory obligation on the father- in-law to provide maintenance to widowed daughter-in-law.

26. The statutory scheme of the Act is quite clear that the father-in-law would be obliged under the law to maintain widowed daughter-in-law when all other sources of income as stated in proviso to sub-section (1) are closed and not available. Therefore, in order to get maintenance from the father-in-law, the widowed daughter-in-law is required to specifically plead and prove by leading cogent, reliable and clinching evidence that all other sources of income maintenance have stated in sub-section (1) are not available to her. In the absence of specific pleadings and evidence regarding any of the sources of earning maintenance stated in sub-section (1) either not pleaded or not proved, the statutory obligation could not be fastened on the father-in-law, irrespective of whether or not he holds any coparcenary property, out of which, daughter-in- law has not obtained any share.

27. According to proviso (a) to section 19, she can be disentitled to claim maintenance from her father-in-law only if she is able to obtain maintenance either from the estate of her husband or her father or mother. The word 'estate' has in law undoubtedly a variety of meaning; it may

mean the property of a living man, as also of a deceased person which passes to his administrators or heirs. But in section 19(a) proviso the expression 'estate of her husband' clearly denotes the estate of a deceased person.

28. In order, to understand and appreciate the true meaning and scope of section 19 of the Hindu Adoptions and Maintenance Act, the section must, be construed and interpreted in the background and light of the legislative scheme or pattern which is discernible and which emerges from a reading together of the recent progressive legislative measures on similar or cognate subjects, e.g., Statute like the Hindu Succession Act ,The Hindu Adoption and Maintenance Act and the Hindu Women's Rights to Property Act, as amended later, and other enactments which have conferred on Hindu women rights with respect to property which they were considered not to possess under the original texts of Hindu Law. All these recent enactments which have, as their fundamental purpose, the removal of Hindu women's disabilities and conferment on them of better rights for maintenance and the underlying cardinal purpose of the Parliament in enacting Hindu Adoptions and Maintenance Act, in response to the needs and demands of a progressive society.

29. Thus. in order to disentitled Hindu widow of her right to claim maintenance from her father-in-law as provided in section 19(1) of the Hindu Adoptions and Maintenance Act, it must be established affirmatively that she is able as of right to obtain maintenance either from the estate of her husband or from her father or mother.

30. At this juncture it would be apt to discuss the section 22 of the Act 1956 , for ready reference same is being quoted as under:

22. Maintenance of dependants.—(1) *Subject to the provisions of sub-section (2), the heirs of a deceased Hindu are bound to maintain the dependants of the deceased out of the estate inherited by them from the deceased.*

(2) *Where a dependant has not obtained, by testamentary or intestate succession, any share in the estate of a Hindu dying after the commencement of this Act, the dependant shall be entitled, subject to the provisions of this Act, to maintenance from those who take the estate.*

(3) *The liability of each of the persons who take the estate shall be in proportion to the value of the share or part of the estate taken by him or her.*

(4) *Notwithstanding anything contained in sub-section (2) or sub-section (3), no person who is himself or herself a dependant shall be liable to contribute to the maintenance of others, if he or she has obtained a share or part, the value of which is, or would, if the liability to contribute were enforced, become less than what would be awarded to him or her by way of maintenance under this Act.*

31. Thus, it is evident from the Section 22 of the Act 1956 that Subject to the provisions of sub-section (2), the heirs of a deceased Hindu are bound to maintain the dependants of the deceased out of the estate inherited by them from the deceased.

32. Further, Section 22(2) of the Act 1956 indicates that once a person is found to be a “dependant” of the deceased, then such a “dependant” has a pre-existing right *qua* the estate of the deceased to get maintenance and that right, if not crystallized by way of grant of definite share in the estate of the deceased either on his intestacy or on the coming into operation of his testament in favour of the dependant, then such pre-existing right of maintenance would remain operative even after the death of the Hindu and would get attached to the estate which may get

transmitted to his heirs either on his intestacy or on account of the testamentary disposition in their favour.

33. In the aforesaid backdrop of the settled position of law, this Court is advertent to the factual aspects of the instant case. From the order impugned, it is evident that we find that though the widowed/ petitioner (respondent no.1 herein) has pleaded and proved that she is unable to maintain herself out of her own earning or other property, there is specific statement to fulfill statutory conditions enumerated in clause (a) & (b) are proviso to sub-section (1) of Section 19 of the Act of 1956. There is also statement of witnesses which corroborates that she is unable to obtain maintenance from her father or mother since her father is not earning.

34. The learned Family Judge in the order impugned has considered the entire factual aspect of the case as also has gone through the relevant sections of the Hindu Adoption and Maintenance Act, 1956 to come to a conclusion that the petitioners are entitled to get maintenance from the appellants herein. For ready reference, the relevant paragraph of the findings recorded in the impugned order of the learned Family Judge is being referred hereinbelow as:

“25. The documents that have been produced from the side of the petitioner reveal that 4.41 acre land pertaining to khata no.63 of mouza Koriyasa is recorded in the name of Bhikhu Mahara, Harkhu Mahara and Etwari Mahara jointly in the record of right. Likewise 2.39 acre land is recorded in the name of Bhikhu Mahara in mouza Koriyasa. In the same way 5.14 aere land of mouza Bariarbandhi is jointly recorded in the name of Bhikhu Mahara, Etwari Mahara and Harkhu Mahara.
26. DW3 Surendra Das (respondent no.1) has admitted in para-21 of his cross-examination that the land in parcha is recorded in the name of his great grand-father Bhikhu Mahara.

27. Thus the above copies of record of rights reveal that some of the landed properties are joint and jointly recorded in the name of Bhikhu Mahara and two others and some of the landed properties are separately recorded in the name of Bhikhu Mahara, the great grandfather of the respondent no.1.

28. On the basis of the above appreciation of the evidence this court comes to the conclusion that the agricultural land among the petitioner and the respondents have not been partitioned and the share of the petitioner's husband in the agricultural land is also under the possession and occupation of the respondents but the petitioners are not being maintained by the respondents and therefore, by virtue of Section-19 and 22 of the Hindu Adoption and Maintenance Act 1956, the petitioners are entitled to the maintenance from the respondents.

29. As regards the quantum of maintenance, there is no strait jacket formula and the court has to consider the status of both the parties, the area of the share in the landed properties being cultivated by the respondents, cost of living etc. and considering all these things, this court thinks Rs. 3000/- per month maintenance allowance for the Petitioner no.1 and Rs.1000/-per month each for the maintenance of the Petitioner no. 2 and 3, will be just and proper. It is therefore, ORDERED that the respondents are directed to pay Rs. 3000/- per month maintenance allowance to the petitioner no.1 and Rs. 1000/- per month each for the maintenance of the Petitioner no. 2 and 3, from the date of filing of this case u/s 19 r/w 22 of Hindu Adoption and Maintenance Act, 1956.....”

35. It is evident from the order impugned that the learned Family Court has appreciated each and every documents and testimonies of witnesses of both sides and has categorically observed that the agricultural land among the petitioners (respondents herein) and the respondents (appellants herein) have not been partitioned and the share of the husband of the petitioner no.1 (respondent no.1 herein) in the agricultural land is also under the possession and occupation of the respondents (appellants herein) but the petitioners are not being maintained by the

respondents and therefore, by virtue of Section-19 and 22 of the Hindu Adoption and Maintenance Act 1956, the petitioners are entitled to the maintenance from the respondents.

36. This Court after discussing the aforesaid factual aspect along with the legal position and the consideration made by the learned Family Judge in the impugned judgment has found therefrom that the issue of maintenance of minor son, daughter and widow (respondents herein) has well been considered along with the evidence as well as from the pleadings made in the plaint and the written statement. The learned Family Judge on consideration of the evidence, both ocular and documentary, has come to conclusion that by virtue of Sections 19 and 22 of the Hindu Adoption and Maintenance Act 1956, the petitioners (respondent herein) are entitled to the maintenance from the respondents (appellant herein).

37. Further, this Court is conscious with the settled proposition of law as has been settled by the Hon'ble Apex Court in the case of “*Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha*”, (1980) 2 SCC 593 that “an appellate power interferes not when the order appealed is not right but only when it is clearly wrong decision”.

38. This Court, on consideration of the finding arrived at by the learned Family Judge and based upon the aforesaid discussion, is of the view that the judgment passed by the learned Family Judge is not coming under the fold of the perversity, since, the conscious consideration has been made of the evidences, both ocular and documentary, as would be evident from the impugned judgment.

39. This Court, therefore, is of the view that the judgment dated 11.09.2023 passed in Original Maintenance Case No.58 of 2022 by the learned Principal Judge, Family Court, Jamtara need no interference and, accordingly, the instant appeal stands dismissed.

40. Pending I.As, if any, stands disposed of.

(Sujit Narayan Prasad, J.)

I Agree.

(Rajesh Kumar, J.)

(Rajesh Kumar, J.)

Sudhir
Dated: 10/06/2025
Jharkhand High Court, Ranchi
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