

Mr 107/18
Sajuara Begum
Vs
Taijuddin Ahmed

IN THE COURT OF JUDICIAL MAGISTRATE 1st CLASS, NALBARI

Case No. 107m /2018

SAJUARA BEGUM
V
TAIJUDDIN AHMED

Present: RUBINA YASMIN, A. J. S.
JMFC, Nalbari

Advocates appeared:

Miss Kahima Choudury...for the petitioner.

Nonefor the respondent

Evidence recorded on – 14-08-18

Date of argument – 26-09-18

Date of judgment – 29-09-2018

JUDGMENT and ORDER

The instant proceeding has been drawn out on the petition filed by Mrs. Sajuara Begum (hereinafter called as 1st party) u/s 125 of CrPC against her husband Taijuddin Ahmed (hereinafter called as 2nd party) for monthly maintenance of Rs. 10000/- for her.

The case of the 1st party in brief is that, the 1st party was married to the 2nd party forty years back and 5 children are born out of their wedlock. It is alleged that the 2nd party on February 2018 deserted her and started living with her eldest son. Since then 2nd party did not pay any maintenance to her nor has bothered to inquire about her. The 1st party has no any income of her own. The 2nd party is a retired central government employee and gets Rs. 30,000/- as pension and also earns near about Rs. 20,000/- from rented house and also has 5-6 bigha of land and earns near about 60000/- in total from all sources.

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Hence she prayed for maintenance at the rate of Rs. 10000/- per month for her.

The 2nd party has not appeared before the court after having knowledge about the case. Hence the case proceeds ex parte against the 2nd Party.

In order to establish the case, the 1st party adduced only her evidence. I have heard the 1st party and perused the materials available on record.

POINTS FOR DETERMINATION:

1. Whether the 1st party is living separately from the 2nd party without any sufficient cause?
2. Whether the 2nd party neglects or refuses to maintain the 1st party who is unable to maintain herself?
3. Whether the 2nd party is entitled to maintenance? If so what is the quantum of Maintenance?

DISCUSSION, DECISION & REASONS THEREOF:

Point No. I:

The 1st party has stated in her evidence as PW1 that she got married to the 2nd party near about 40 years ago. As the 2nd party has not contested the case after having knowledge of the same it is presumed that the marriage between the parties is undisputed one. So far, the allegation of the 1st party for living separately from her husband is concerned it is alleged by the 1st party that since February 2018 2nd party has deserted her.

Point No. II and III are clubbed together

The petitioner/1st party in her evidence stated that she has no any source of income and that the 2nd party is a retired central government employee and still gets pension of Rs. 30000/-and earns in total Rs.60,000/ per month from all sources including his pension. The object of section 125 Crpc is to prevent starvation of the person in whose favor the order is passed. In this instant case, the 1st party has stated that the 2nd party has deserted her.

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There is nothing to disbelieve the evidence of PW1. Moreover, the 2nd party after having knowledge did not contest the case. Hence both the issues are decided in affirmative

In view of the above discussions and decisions, it is held that the 1st party is entitled to get maintenance from the 2nd party.

ORDER

In the result, maintenance allowance is granted to the 1st party @ Rs. 7000/- (Rupees seven thousand) per month from the 2nd party w.e.f. date of passing of this order i.e. 29.09.18 until the 1st party remarries or as per provision of law.

A free copy of this judgment be given to the parties forthwith.

This Misc case is disposed of uncontested.

Given under my hand and seal of this court on this 29th day of September, 2018

Rubina Yasmin
JMFC, Nalbari

Appendix

List of witness for the 1st party

1. PW1- Sajuara Begum

List of witness for the 2nd party

Nil

Rubina Yasmin

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