

**IN THE COURT OF THE PRINCIPAL JUNIOR CIVIL JUDGE-CUM-
JUDICIAL MAGISTRATE OF FIRST CLASS AT MANTHANI**

PRESENT: SRI D. NAGESWARA RAO

Principal Junior Civil Judge-Cum-Judicial Magistrate of First Class, Manthani

Thursday, on the 26th day of December, 2019

M.C. No. 1 OF 2016

BETWEEN:

(1) Kandunuri Vyshanavi, D/o. Narayana.

Aged about 10 years, Occ: Student,

(2) Kandunuri Vishnu Teja, S/o. Narayana.

Aged about 8 years, Occ: Student,

The Petitioners are being minors represented by their

Maternal Grand Father namely Sri Birudu Mondaiah,

S/o. Ramaiah aged about 62 years, Occ: Retired Employee,

R/o. Near Old Bus Stand, Manthani Village and Mandal.

...Petitioners.

And

Sri Kandunuri Narayana, S/o. Lasmaiah,

Aged about 42 years, Occ: Business,

R/o. H.No.7-153, Tank Road, Sulthanabad.

...Respondent.

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This case is coming before this Court for final hearing on 26-12-2019 in the presence of **Sri M. Sayender Reddy**, learned Counsel for Petitioners and **Sri K. Sadan Kumar**, learned Counsel for the Respondent and upon hearing the arguments and the matter is having stood over for consideration to this day, this Court delivered the following:-

ORDER

This is a Petition filed by the Petitioners under Section 125 of Code of Criminal Procedure, 1973 (In short "Cr.P.C") against Respondent and requested to award a maintenance of Rs.10,000/-(Rupees ten thousand only) per Month.

The factual background of the Petitioners

2. The case of the Petitioners, in brief is that, the Petitioner No1 is the daughter and Petitioner No.2 is the son of Respondent. The mother of Petitioners namely Kandunuri @ Birudu Rajitha was died on 12-07-2015 as she was killed by Respondent.

Since the death of their mother, the Petitioners are residing at Manthani under the care and custody of their maternal grandparents. Now the Petitioners are studying in Manthani School. The maternal grandparents are bearing all the expenditure of the Petitioners.

The Respondent did not pay any amount towards their maintenance since the death of their mother. Their maternal grandfather and guardian of Petitioners is a 4th class retired employee and he is getting meager amount towards his pension. As such, it is becoming very difficult to him to maintain the Petitioners along with his family. The grandfather of Petitioners is incurring an amount of Rs.10,000/- (Rupees ten thousand only) per Month towards their food, cloths, education and medicines etc., for the Petitioners.

The Respondent is retailer and doing business at Peddapalli and also having agricultural lands at Sulthanabad and earning of an amount of Rs.30,000/- (Rupees thirty thousand only) per Month. As such the Respondent can afford of Rs.10,000/- (Rupees ten thousand only) per Month towards the maintenance of the Petitioners. Hence, the Petitioners filed this petition.

3. After registering the case, notice was issued to the Respondent and the Respondent having received the notice, appeared before the Court through his Counsel and reported no Counter in this case.

Trial

4. During trial, **Sri Birudu Mondaiah, S/o. Ramaiah** himself got examined as **PW-1 on behalf of Petitioners as Petitioners are being minors** and got marked **Ex.P1** is the original education fee receipts (2 in Number) of Petitioner No.1 and 2. **Sri Akula Narayana, S/o. Ramaswamy** got examined as **PW2**.

The Respondent (Sri Kandunuri Narayana, S/o. Lasmaiah) himself got examined as **RW1**. Ex.R1 to Ex.R4 are marked on his behalf. Sri Gandu Sanjeev, S/o. Anthaiah filed chief affidavit as RW2 but not examined as such his chief affidavit was achieved.

5. Heard the arguments of both parties elaborately. Perused entire record.

During arguments, the Counsel for Petitioners argued that the Petitioners are minors and depending upon their maternal grandparents. The Respondent is avoiding his legitimate duty to maintain them in one way or the other. He prayed to allow the petition.

On the other hand, the Counsel for Respondent argued that the Respondent never neglected the Petitioners. As such, the Petition is to be dismissed with costs.

6. Now, the point germane for my determination is “**Whether the Petitioners are entitled to get maintenance as prayed for? If so, what is the quantum of Maintenance ?**”

P O I N T

7. In order to appreciate the validity and sustainability of the rival stances, now at this juncture, I am obliged to advert to the material emanated from the testimony of PW1, PW2 and RW1 and Ex.P1 and Ex.R1 to Ex.R4.

Before going to appreciate the evidence on record, if we analyse Section 125 of Cr.P.C which shows that “Order for maintenance of wives, children and parents”—If any person having sufficient means neglects or refuses to maintain his wife, children, his father or mother, unable to maintain himself or herself, upon proof of such neglects or refusal, order such person to make a Monthly allowance for the maintenance of father or mother at such monthly rate and to pay the same to such person from time to time.

In order to attract the ingredients of Section 125 of Cr.P.C., the Petitioners got examined Birudu Mondaiah as PW1 and Sri Akula Narayana as PW2 and Ex.P1 are the school fee receipts.

8. On perusal of evidence (PW1/Birudu Mondaiah) he deposed in his chief and he reiterated the contents of Petition.

During his cross-examination, he admitted that he did not mention the details of his daughter marriage with Respondent No.1 and also about the dowry particulars in his petition and chief affidavit. He admitted the date of death of his daughter namely Birudu @ Kandunuri Rajitha on 12-07-2015 but he did not mention about the particulars of the case. He denied that the Respondent is bearing the expenses of education of Petitioner No.1 and 2. He denied that they received an amount of Rs.8 lakh from the Respondent to compromise the matter

with him. He admitted that one house is on the name of his deceased daughter and same was transferred on the name of Petitioner No.1 and 2.

9. On perusal of evidence of **PW2 (Sri Akula Narayana)** who is relative of Petitioners deposed and reiterated the contents of Petition in his chief affidavit.

During his cross-examination, he admitted that PW1 is his brother-in-law. Petitioner No.1 is studying 8th class at Kasthurba Government School at Centenary Colony and Petitioner No.2 is studying 6th Class at Krishnaveni Private School at Manthani. He admitted that he stood as village elder in the Panchayath which was held between grandfather of the Petitioners and Respondent on 27-10-2016. He admitted that in that Panchayath both parties agreed that the Respondent shall have to execute a regular registered sale deed in respect of house situated at Peddapalli and agricultural land situated at Sulthanabad and also gave of Rs.5 lakh in favour of Petitioners. He deposed that Rs.5 lakh is not for welfare of the Petitioners. He admitted that hose at Peddapalli is under the lease of Government office by the Respondent. He admitted that the amount of rent of Rs.8,600/-(Rupees eight thousand and six hundred only) deposited in the account of guardian of Petitioner regularly for the welfare of Petitioners. He admitted that the he did not file any documentary to show that the Respondent is doing real estate business.

10. In contra, the **Respondent (Sri Kandunuri Narayana, S/o. Lasmaiah)** got examined as **RW1. Ex.R1 to Ex.R4** are marked on his behalf.

On perusal of **Ex.R1**, it is the certified copy of Gift Settlement Deed document No.5986/2016, dated:15-11-2016, which shows that the Respondent got executed a registered gift deed in favour of Petitioners in respect of house bearing No.1-2-14/G/3/1 in Sy.No.585, Plot No.3, admeasuring to an extent of 364 Square Yards situated at Hanuman Nagar locality of Peddapalli Town.

On perusal of **Ex.R2**, it is the certified copy of Gift Settlement Deed document No.3190/2016, dated:04-11-2016, which shows that the mother of Respondent namely Kandunuri Venkatamma got executed a registered gift deed

in favour of Petitioners in respect of land bearing Sy.No.581 admeasuring to an extent of Acs.0-20 guntas situated at Sulthanabad Village and Mandal.

On perusal of **Ex.R3**, it is the un-registered agreement, dated:25-04-2017.

On perusal of **Ex.R4**, it is the letter issued by Additional Director, Mines and Minerals, dated:23-03-2019.

He deposed in his chief that he admitted the Petitioner No.1 and 2 are his daughter and son respectively. He arranged the amounts to the Petitioners to meet their educational expenses and other incidental expenses etc. He deposed that his wife was died on 12-07-2015 who is the mother of Petitioners. Out of love and affection, the grandparents of Petitioners led them. After several discussions they agreed to settle the matter amicably and as per the agreement he agreed to pay of Rs.5 lakh to PW1 directing him to keep such amount in Fixed Deposit on the names of Petitioners. Prior to it, he has gifted the RCC Roofed Ground Floor and First Floor House bearing No.1-2-14-G/3/1 out of Sy.No.585, Plot No.3 situated at Hanuman Nagar locality of Peddapalli Town through registered gift deed vide document No.5986/2016, dated:15-11-2016. After taking the house, it was given on rent to Mines and Geology Department, Peddapalli and they are paying of Rs.8,654/- per Month. His mother paternal grandmother of Petitioners has also gifted the agricultural land to an extent of Acs.0-20 guntas in Sy.No.581 situated at Sultanabad Village and Mandal through registered gift settlement deed vide document No.3190/2016, dated:04-11-2016 on the names of Petitioners. He has given the said amount and properties out of love and affection towards the Petitioners.

During his cross-examination, he admitted that the Petitioners are residing with their maternal grandparents at Manthani. He admitted that they are studying and the school fee is paying by their maternal grandfather including other expenditure for their maintenance. He admitted that the alleged property covered in Ex.R1 was stands on the name of mother of Petitioners. He admitted that the land covered under Ex.R2 is situated at Sulthanabad Village and Mandal. He did

not know whether Ex.R1 and Ex.R2 are mutated in concerned Revenue and Municipal records. He admitted that he did not any maintenance to the Petitioners till date. He admitted that the said amount of Rs.5 lakh was given under Ex.R3 towards fixed deposit on the name of Petitioners. He admitted that Ex.R3 does not contain that the interest amount may be used by the grandfather of the Petitioners by their maintenance.

11. On perusal of the evidences, the PW1, PW2 and RW1 and Ex.P1 and Ex.R1 to Ex.R4, it is admitted facts that the Petitioners are the daughter and son of the Respondent and the mother of Petitioners was died on 12-07-2015. The Respondent during his cross-examination admitted that he did not give any amount of maintenance to the Petitioners till date. But he and his mother got executed some property in favour of Petitioners as per Ex.R1 and Ex.R2.

It is admitted fact that the Petitioners are residing with their maternal grandparents. The PW1 is their maternal grandfather and he is a retired employee maintaining the Petitioners.

12. In respect of quantum of maintenance for the Petitioners, the Petitioners are seeking maintenance of Rs.10,000/-(Rupees ten thousand only) per Month for their livelihood from Respondent.

It is bounden duty of the Respondent to maintain the Petitioners as his children in addition to giving of other properties. On perusal of evidence of PW1, PW2 and RW1, the Respondent admitted during in his cross-examination, he did not give any amount to the Petitioners for their maintenance.

On perusal of evidence of PW1, it shows that Petitioners are being minors and residing with him.

13. Keeping in view of earning capacity of the Respondent and his burden towards the maintenance of Petitioners and considering the cost of living of these days, this Court is of the opinion that **Rs.5,000/-(Rupees five thousand only) each** per Month to the Petitioners payable by Respondent in addition to other property gave by him and his mother excluding the educational and medical

expenditure of the Petitioners would be an appropriate monthly maintenance for proper well-being of the Petitioners. Accordingly, the point is answered in favour of Petitioners.

14. IN THE RESULT, the petition is allowed in favour of Petitioners. The Respondent is hereby directed to pay an amount of **Rs.5,000/-(Rupees five thousand only) each** per Month to the Petitioners towards their maintenance from the date of order **(Total Rs.10,000/-) in addition to educational and medical expenses**. The Petitioners are directed to open Bank Account on their names in any Nationalised Bank and the same will be informed to the Respondent to enable him to deposit the said amounts in the said Account.

In the meantime, the Respondent shall deposit the said maintenance amount before this Court payable on or before 10th of every succeeding Month to enable this Court to pay the same to the Petitioners.

Typed by me on my personal Laptop and corrected and pronounced by me in open Court on this the 26th day of December, 2019.

**Prl. Junior Civil Judge-cum-Judicial
Magistrate of First Class, Manthani**

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR PETITIONERS		FOR RESPONDENT
PW-1	Sri Birudu Mondaiah, S/o. Ramaiah	RW-1 Sri Kandunuri Narayana, S/o. Lasmaiah
PW-2	Sri Akula Narayana, S/o. Ramaswamy	

DOCUMENTS MARKED FOR PETITIONERS

Ex.P1 is the original school fee receipts.

DOCUMENTS MARKED FOR RESPONDENT

Sl. No.	Description of Document
Ex.R1	Ex.R1 , it is the certified copy of Gift Settlement Deed document No.5986/2016, dated:15-11-2016, which shows that the Respondent got executed a registered gift deed in favour of Petitioners in respect of house bearing No.1-2-14/G/3/1 in Sy.No.585, Plot No.3, admeasuring to an extent of 364 Square Yards situated at Hanuman Nagar locality of Peddapalli Town.
Ex.R2	Ex.R2 , it is the certified copy of Gift Settlement Deed document No.3190/2016, dated:04-11-2016, which shows that the mother of Respondent namely Kandunuri Venkatamma got executed a registered gift deed in favour of Petitioners in respect of land bearing Sy.No.581 admeasuring to an extent of Acs.0-20 guntas situated at Sulthanabad Village and Mandal.
Ex.R3	Ex.R3 , it is the un-registered agreement, dated:25-04-2017.
Ex.R4	Ex.R4 , it is the letter issued by Additional Director, Mines and Minerals, dated:23-03-2019.

**Prl. Junior Civil Judge-cum-Judicial
Magistrate of First Class, Manthani**