# **An illegitimate child is entitled to claim maintenance from his or her father or mother till she or he attains majority – Madras High Court**

It is the bounden duty of a father to maintain his unmarried daughter who is unable to maintain herself out of her own earnings or other property. This were stated by the single bench of **Honourable Mrs. Justice S. Kannammal** in the caseof **Indirani & Anr. v. A.Rajasekaran & Anr. (S.A.No.78 of 2019)**

A. Rajasekaran (first defendant) is Indirani's (first plaintiff) husband and the father of R. Megala (second plaintiff). The first plaintiff and first defendant were married in 1984 at Arulmigu Subramaniya Swamy Thirukoil in Thiruttani, according to Hindu rituals and customs. The first defendant began an illicit relationship with one Shanthi and married her in 1994. After a few months, the first defendant moved out of that Shanthi and began living with the first plaintiff. Despite multiple mediations and the plaintiff's outrage, the first defendant married one Mohanasundari. Because of the first defendant's bigamous attitude, the plaintiffs are on the street with no money or help from relatives. The second plaintiff dropped out of school as a result of the desertion. Meanwhile, the first defendant made it absolutely clear that the first plaintiff was not his wife. Apart from the second plaintiff, the first plaintiff is the wife of one Rose Khan, who has two sons and one daughter via him. The first defendant reports to the second defendant. But he had nothing to do with the suit's qualities. According to the plaintiffs, the first defendant had neither agricultural lands or income. It is true that the first defendant married Shanthi and then divorced by mutual accord. The first defendant is presently living quietly with his wife, Mohanasundari. However, the plaintiffs have filed this frivolous claim just to harass the first defendant.

The trial Court dismissed the complaint in a decision and decree dated 21.06.2011. The plaintiff had filed a complaint in the Additional Sub-Court of Thiruvallur, challenging the said decision and decree. The first appellate Court also dismissed the appeal and upheld the trial Court's decision and decree; therefore the plaintiffs are now before this Court.

The single bench of **Honourable Mrs. Justice S. Kannammal** observed following in the case. The Courts below had rightly observed that the plaintiffs have suppressed the marriage of the 1 st plaintiff with one Rose Khan and about two sons born to them. Further, the 1 st appellate Court has rightly disbelieved the contention of plaintiffs that there was a customary divorce by name “Nadu Veetil Thali Aruthu Kodupathu” for the first time in the appeal without any pleadings or any other evidence in support of the same.

Thus after observing the substantial questions of law with regard to the 2nd plaintiff, admittedly the 2nd plaintiff who was 19 years old at the time of filing of the suit and is 24 years during trial and she has filed the suit on her individual capacity since she is a major at the time of filing the suit. The Court concluded that, it is the bounden duty of a father to maintain his unmarried daughter who is unable to maintain herself out of her own earnings or other property. No doubt that the 2nd plaintiff is the daughter of the 1st respondent, and the respondent herein has deposed in his cross-examination that the 2nd plaintiff was born to 1 st plaintiff through him. Section 20 of Hindu adoption and maintenance deals with the maintenance of children and aged parents. Referring to the judgment of **Pachaimuthu v. Vishanthini (2020 SCC Online Madras 2677)**, But the daughter who claimed maintenance shall prove that she is unable to maintain herself and she has no means. In the present case, the 2nd plaintiff who was aged 19 years old at the time of filing of the suit and 24 years old during trial has neither come forward to depose about her inability to maintain herself nor subjected herself to cross-examination. When it was not even proved that she is unable to maintain herself by let in any evidence the 1 st appellate Court has rightly dismissed the appeal. Hence, this Court does not find any infirmity in the judgment and decree passed by the 1st appellate Court. In the result, this Second Appeal is dismissed.