

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
I.A.NO_____ OF 2011

IN

SPECIAL LEAVE PETITION (Civil) NO. 15071 OF 2009

IN THE MATTER OF:

CHANMUNIYA APPELLANT

VERSUS

V.K SINGH KUSHWAHA AND ANR ... RESPONDENTS

AND IN THE MATTER OF:

PARTNERS FOR LAW IN
DEVELOPMENT & ORS.APPLICANTS/
INTERVENER

PAPER- BOOK

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ADVOCATE FOR THE APPLICANTS/INTERVENOR:

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V.K SINGH KUSHWAHA AND ANR ... RESPONDENTS

AND IN THE MATTER OF:

1. Partners for Law in Development
Through Executive Director
Madhu Mehra
D/o Mr. M.D Mehra
Executive Director, Partners for Law in Development
R/o F-18 Jangpura Extension
New Delhi
2. Academy For Socio Legal Studies (ASLS)
Through Secretary
Kailash Chand Kumbhakar
S/o Late Shri Mangi Lal
Secretary, Academy For Socio Legal Studies (ASLS)
R/o Vivek Nagar,
Station Road Jaipur
Rajasthan
3. Chotanagpur Sankritik Sangh (CSS)
Through Secretary
Sachi Kumari
D/o Mr. Ishwari Prasad
Secretary,
Chotanagpur Sankritik Sangh (CSS)
R/o 46, Pragati Vihar,
Dibadih, Doranda,
Ranchi – 834002,
Jharkhand
4. Friends Association For Rural Reconstruction (FARR)
Through Project Coordinator
Aradhana Nanda
D/o Mr. Jagannath Nanda
Project Coordinator, Friends Association For Rural
Reconstruction (FARR)
R/o Hill Town,
Bhabanipatna, Kalahandi

Orissa

5. Mahila Jan Adhikar Samiti (MJAS)
Through Secretary
Indira Pacnholi
D/o Mr. B.P. Pancholi
Secretary,
Mahila Jan Adhikar Samiti (MJAS)
R/o D- 257 (SF) Sarvodaya Enclave
New Delhi
 6. Navjeevan Development Centre (NDC)
Through Secretary cum Director
Sister Sabeena
New Area, Sasaram,
Rohtas 821115
Bihar
 7. Mary E. John
D/o Mr. Elavinakuzhy Cherian John
R/o A- 1/6 Maurice Nagar,
Delhi University,
Delhi
 8. Uma Chakravarti
D/o Mr. P.S. Doraswami
R/o G-4 Anand Niketan
New Delhi
-APPLICANTS/
INTERVENER

APPLICATION FOR INTERVENTION.

To

The Hon'ble the Chief Justice and
His Companion Justices of the
Hon'ble Supreme Court of India
New Delhi

Humble Petition of the Applicants abovenamed

MOST RESPECTFULLY SHEWETH:

1. That the present Application is being filed by the Applicants seeking leave of this Hon'ble Court to intervene in the aforesaid Special Leave Petition, which was filed against the Judgment and Order dated 28.11.2007 passed by the High Court of Judicature at Allahabad in First

Appeal No. 110 of 2004 and Order dated 23.01.2009 passed by the High Court of Judicature at Allahabad Review Application No. 54098 of 2008.

2. That this Hon'ble Court while dealing with the issue of grant of maintenance U/s. 125 of the CrPC had referred three substantial questions of law to the larger Bench for consideration. The questions referred are as follows:

- (I) Whether the living together of a man and woman as husband and wife for a considerable period of time would raise the presumption of a valid marriage between them and whether such a presumption would entitle the woman to maintenance under section 125 Cr.P.C?
- (II) Whether strict proof of marriage is essential for a claim of maintenance under section 125 Cr.P.C having regard to the provisions of the Domestic Violence Act, 2005?
- (III) Whether a marriage performed according to customary rites and ceremonies, without strictly fulfilling the requisites of section 7(1) of the Hindu Marriage Act 1955 or any other personal law would entitle the woman to maintenance under section 125 Cr.P.C?"

3. The Applicant No. 1, Partners for Law in Development (hereinafter referred to as PLD), is a non profit legal resource and advocacy group founded in 1998 working in the field of social justice and women's rights in India. The organisation is a public charitable trust registered under The Indian Trusts Act 1882, with a mission to advance social justice in society through the law. One of PLD's key areas of field work has been on women and access to justice, which allowed PLD to examine mediation by NGOs and district centres at the community level. This study provided insights into the types of conjugal relationships that exist and the nature of abuse and violations women face across all types of conjugal relationships. These insights led PLD to undertake further field work to document relationships in the nature of marriage, and the protection gaps for women in these relationships. A resource book, titled '*Rights in Intimate Relationships: Towards an Inclusive and Just Framework of Women's Rights and the Family*' (2010) based on this field work has been published by PLD and is annexed for ready reference herewith and marked as **ANNEXURE P-1.**

4. The Applicant No. 2 to 6 are community based organizations providing, amongst other services, crisis support to women.

5. The Applicant No. 2, The Academy for Socio-Legal Studies (ASLS), is a human rights organization based in Jaipur.

6. The Applicant No. 3, Chotanagpur Sankritik Sangh (CSS), was established in 1968 in Ranchi with the objective of preserving and promoting the culture of the Chotanagpur plateau, and to address the needs of the most vulnerable sections of society in that region.

7. The Applicant No. 4, Friends Association for Rural Reconstruction (FARR), was established in 1983 and is an organization that works primarily with the adivasi population of Kalahandi District in Orissa, undertaking empowerment programmes, building leadership of local women, to enable them to assert rights.

8. The Applicant No. 5, Mahila Jan Adhikar Samiti (MJAS), based in Ajmer, has been active since 1997 in central areas of Rajasthan on issues of violence against women in the home and the workplace. It was registered in 2000 under the Rajasthan Societies Registration Act 1958.

9. The Applicant No.6, Navjeevan Development Centre, registered in 2002, is a social organization working to mobilize, organize, empower and enable the rural poor for health, education, political and social development. The

organization works from Rohtas District in Bihar and focuses on the empowerment of women and girls.

10. The Applicant Nos. 7, Dr. Mary E. John, is a senior reputed academic in the fields of women's studies, history and gender justice, with an impressive record of publications, and association with gender justice causes and activism. Dr. Mary E. John has been working in the fields of women's studies and feminist politics for many years. She was Associate Professor and Deputy Director of the Women's Studies Programme at JNU from 2001-2006. She has published numerous books and articles, including recently having edited 'Women's Studies in India: A Reader', New Delhi (Penguin, 2008). She is currently the Director of Centre for Women's Development Studies (CWDS), the premier national centre on women's studies in New Delhi.

10. That Applicant No. 8, Uma Chakravarti, is one of the leading feminist historians of India and South Asia, and who has written extensively on the intersection of caste, religion and sexuality. Among her published works include: 'Rewriting history: the life and times of Pandita Ramabai' (Kali for Women, 1998); 'Social Dimensions of early Buddhism' (Oxford University Press, 1987); 'The Delhi Riots: Three Days in the Life of a Nation' (co-edited with Nandita Haksar, South Asia Books 1987); 'Shadow lives: Writings on Widowhood' (co-edited with Preeti Gill,

Zubaab 2001) and 'From Myths to Markets: Essays on Gender' (co-edited with Kumkum Sangari, Manohar Publications 2001). Uma Chakravarti has been associated with the women's movement and the democratic rights movement for the past forty years.

11. That the applicants are seeking to intervene because each of the aforesaid questions referred for consideration by the larger bench of this Hon'ble Court will have a direct bearing on the rights and interests of women, making a claim for maintenance under Section 125 Cr.P.C. Each of the aforesaid applicants are research organizations and/or community based organizations and/or individual researchers and academicians based in different parts of the country who have been involved in women's rights and gender justice issues over several decades. That the applicants nos.1 to 6 have each in their professional capacity engaged with law and justice in their work with women at the grassroots level and have dealt with the rights and interests of women within marriages and other conjugal relationships.

12. That Applicant Nos. 7-8 are well reputed academicians and researchers who have written extensively on women's rights over the past several decades and their works and publications have come to occupy a space of respect and authority in the area of women's rights and gender justice.

13. That the Applicants therefore have considerable knowledge and experience of women's realities in the family in rural and small town India, as they work closely with the community, through crisis support and mediation services and through research respectively, and desire to assist the Hon'ble Court by providing information and assistance in analyzing and understanding the questions referred to the Larger bench of this Hon'ble Court. As a result, the applicants are seeking to intervene in order that they may humbly put forth a representation necessary for the analyses of the aforesaid questions that will be based on situations of fact and law.

14. It is submitted that it would be in the interest of justice that the Applicants may be permitted to intervene in the aforesaid Special Leave Petition and make an effort to render necessary assistance and provide the data that would help in dealing with the issue at hand, as any decision would have far reaching and wide ramifications.

15. That the Applicants also seek permission to file written submissions and adduce arguments as and when required by this Hon'ble Court.

16. That this Application is *bona fide* and in the interest of justice.

PRAYER

In view of the facts and circumstances stated above it is most respectfully prayed that this Hon'ble Court may be pleased to:

- (a) Allow the applicants to intervene in the aforesaid Special Leave Petition;
- (b) Permit the Applicants to file written submissions and adduce arguments in the aforesaid Special Leave Petition.
- (c) Pass any such other and further orders as this Hon'ble Court may deem fit and proper.

FILED BY:

ADVOCATE FOR THE APPLICANTS

Filed On: