



2026:AHC:60420-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL DEFECTIVE No. - 246 of 2026

Bhura Sahu Alias Ramakant

.....Appellant(s)

Versus

Rishabh And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Raja Ram Kushwaha
Counsel for Respondent(s)	:	

Court No. - 2

**HON'BLE ATUL SREEDHARAN, J.
HON'BLE VIVEK SARAN, J.**

Re: Civil Misc. Delay Condonation Application No. 02 of 2026

1. There is a delay of 11 days in filing the appeal.
2. In view of what has been stated in the said application, the delay is condoned.
3. The application is allowed.

Re: Appeal

1. Present appeal has been filed by the appellant, who is aggrieved by the order passed by the learned Trial Court dated 20.01.2026 upon an application moved by his maternal grandfather.

2. The brief facts of the case are as follows:

The wife is the daughter-in-law of the appellant. She was charged with the murder of her husband who was the son of the appellant. She was tried by a Court of competent jurisdiction and acquitted. The appeal against that acquittal, is pending before this Court as so stated by the learned counsel for the appellant. He is aggrieved by the aforementioned order passed by the learned Trial Court in an application moved by the father of his daughter-in-law for the maintenance of the grand sons under the Hindu Adoptions and Maintenance Act, 1956 (hereinafter referred to as the 'Act'). The said application was allowed by the impugned order,

when the learned Trial Court directed the appellant, who is the paternal grandfather of the two children to pay Rs. 2000/- per child every month. The said order was passed exercising jurisdiction under Section 18 of the Act.

3. At the outset, learned counsel for the appellant has fairly mentioned that the said order would have been justified had the same been passed under Section 22 of the Act. He further submits that as the order has been passed under the wrong provision of law, the same deserves to be set aside. He has also by way of a suggestion put forth before this Court that the impugned order be set aside and the matter be remanded to the learned Court below to pass a fresh order under the appropriate Section of the Act.

4. Under Section 18 of the Act, the provision is for maintenance to be given to the wife of a deceased Hindu, which provides for the maintenance of a wife by the husband. Whereas Section 22 of the Act provides for the maintenance of the dependents by the heirs of a deceased Hindu from the estate inherited by them of the deceased by way of survivorship.

5. Undisputedly, the learned Trial Court has taken into consideration that the son of the appellant was a coparcener in the property and that he had a share in the said property, which now devolves upon the appellant and others, if any, by way of survivorship. The only objection that has been raised by the appellant is the order being passed, mentioning the wrong section of the aforementioned Act, and if the same had been passed under Section 22 of the Act, the same would have been appropriate.

6. It is trite law, and requires no further elucidation that merely because the wrong section has been mentioned in an order granting relief, the same cannot invalidate the order as bad in law, as long as the Court had powers to pass such an order under the statute, though it may be under another section that provides for such powers.

7. Under the circumstances, merely because the incorrect section has been mentioned in the impugned order, the same would not invalidate the order as this Court is of the opinion that the authority to pass such an order was

vested in the learned Trial Court by virtue of Section 22 of the aforementioned Act. Therefore, this Court is also of the opinion that remanding the case merely to correct a clerical error in the order would result in wastage of time and also place undue pressure on the Trial Court, where the same is not necessary.

8. Therefore, this Court does not find any infirmity in the impugned order. The appeal is **dismissed**, accordingly.

(Vivek Saran,J.) (Atul Sreedharan,J.)

March 24, 2026

Noman