

**Apurva @ Apurvo Bhuvanbabu
Mandal
Versus
Dolly & Ors
2025 Supreme Court**

Provisions Involved-:

**Maintenance rights of the wife and
children,**

SARFAESI Act,

Insolvency and Bankruptcy

“11. The appellant is directed to pay the arrears of maintenance within a period of three months. In this regard, we direct that the charge of arrears of maintenance, payable to the respondents, shall have preferential right over the assets of the appellant, over and above, the rights of a secured creditor or similar right holders, under any recovery proceedings. Wherever such proceedings are pending, that forum is directed to ensure that the arrears of maintenance are released to the respondents forthwith. No objection of any secured creditor, operational creditor or any other claim shall be entertained opposing the

entitlement of the respondents for maintenance.

12. We say so for the reason that the right to maintenance is commensurate to the right to sustenance. This right is a subset of the right to dignity and a dignified life, which in turn flows from Article 21 of the Constitution of India. In a way, the right to maintenance being equivalent to a fundamental right will be superior to and have overriding effect than the statutory rights afforded to Financial Creditors, Secured Creditors, Operational Creditors or any other such claimants encompassed within the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, the Insolvency and Bankruptcy Code, 2016 or similar such laws.

13. In case the appellant fails to pay the arrears of maintenance to the respondents, the Family Court shall take coercive action against the appellant and, if so required, may auction the immovable assets for the purpose of recovery of arrears of maintenance.