

Court No. - 39

Case :- FIRST APPEAL DEFECTIVE No. - 405 of 2023

Appellant :- Smt. Seema

Respondent :- Sri Krishna @ Krishna Pal Prajapati

Counsel for Appellant :- Himanshu Singh

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Shiv Shanker Prasad,J.

1. Heard Shri Himanshu Singh, learned counsel for the appellant and perused the record.

2. Present appeal has been filed under Section 19 of the Family Courts Act, 1984, arising from the order dated 29.10.2022 passed by learned Additional Principal Judge, Family Court, Mathura, whereby the learned court below has rejected the application (paper no. 39C) filed by the appellant seeking interim maintenance. The appeal has been presented with the delay of 273 days.

3. Besides the long delay on merits, we find no good ground to offer interference. The learned court below has rejected the application for grant of interim maintenance on the reasoning that there exists prima facie evidence of second marriage performed by the appellant during the subsistence of her marriage with the respondent. That finding has arisen on the strength of the order passed by this Court in **Criminal Misc. Writ Petition No. 4731 of 2021 (Smt. Seema Kumari wife of Naveen Prajapati and another Vs. State of U.P. & Ors.)**.

4. Till that order survives, the prayer for interim maintenance may not have been entertained.

5. Accordingly, leaving it open to the appellant to seek recall of the order passed by this Court on the grounds being pressed in the present appeal and further leaving it open to the appellant to apply afresh for grant of interim maintenance, if the order passed by the writ-Court is recalled.

6. At this stage, the appeal stands **disposed of**.

Order Date :- 7.11.2023

SA

(Shiv Shanker Prasad, J.) (S.D. Singh, J.)