

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.1015 of 2010

Faiyaz Ahmad Ansari son of late Mozhirul Haque, resident of village Navtolia, P.S. Pandaul, district Madhubani

.... Plaintiff/Appellant

Versus

1. Sahida Khatoon wife of Md. Faiyaz Ahmad
2. Naushaba Parveen daughter of Md. Faiyaz Ahmad. Both resident of village Nabtolia, P.S. Pandaul, District Madhubani at present residing at Bhowara Ward No. 28, P.S. and District Madhubani

.... Defendant/Respondent

Appearance :

For the Appellant/s : Mr. Md. Imteyaz Ahmad, Advocate

For the Respondent/s : Mr. Gagan Deo Yadav, Advocate

Mr. Vinod Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 28-04-2015

In spite of due indulgence granted to the appellant to appear before us, he has not chosen to appear, as it is said that counsel representing him in the Court of Principal Judge, Family Court, Madhubani in connection with Matrimonial Case No. 54 of 2009 has not been able to contact him. Respondent no.1, her daughter and another son have appeared along with father of Respondent no.1 yesterday and today in the light of our order, as such, it may not be possible for us to further adjourn the matter.

2. Having heard counsel for the appellant-husband, respondent-wife and the two children present, we dispose of the appeal observing that it is open for the respondent-wife to join her



matrimonial home provided she is granted due respect by her husband as she has volunteered to take care of her mother-in-law provided the two younger brothers of her husband reciprocate the same and grant her same treatment which is to be given to the elder sister-in-law. After the respondent-wife joins matrimonial home, appellant- husband will never restrain his wife from meeting her father, mother and brothers as and when they choose to come to her matrimonial home to meet her and the three children.

3. Until the respondent-wife joins her matrimonial home, she be paid maintenance amount to the extent of 1/3rd of the take home salary of the appellant as respondent has not only to support herself but also her two children.

4. It is submitted by the respondent that she has not been allowed to meet her eldest son, who is with his father, the appellant, as such, we direct the Principal Judge, Family Court, Madhubani to ask the appellant to make available his eldest son in the Court proceeding so as to enable the respondent-wife to interact with him. After passage of some time when the eldest son becomes familiar with the mother, Principal Judge, Family Court will ascertain the views of the eldest son and if he agrees to stay with his mother the Principal Judge shall pass order accordingly.

5. The appeal is disposed of in the aforesaid terms granting

liberty to the appellant to seek modification of this order by filing interlocutory application, if necessary, but only after ensuring payment of maintenance to the respondent amounting to 1/3rd of his take home salary from the month of May, 2015.

6. Let a copy of this order be sent to the office of the Civil Surgeon, Madhubani through FAX for necessary compliance as for the present appellant-husband is serving as Assistant in the Primary Health Centre, Andhra Thari, District Madhubani.

(V.N. Sinha, J.)

(Nilu Agrawal, J.)

Arjun/-

U		T	
---	--	---	--