

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2191 of 2015

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1. Md. Naushad Khan Son of Md. Jamaayat Khan Resident of Mohalla Ansar Nagar Masjid Gali, Nawada, P.S- Nawada, District - Nawada.

.... Petitioner/s

Versus

1. The State of Bihar
2. Nigar Naz Wife of Md. Naushad Khan (D/o Rustam Ali Khan) Resident of Ansar Nagar, Masjid Gali, Nawada, P.S- Nawada.District - Nawada, at present residing at Mohalla Kalami Mohalla, Aurangabad P.S & District - Aurangabad.
3. Nida Nigar ,aged about more than one year, under the guardianship of her mother Nigar Naz D/o Md. Naushad Khan Resident of Mohalla Ansar Nagar Masjid Gali, Nawada, P.S- Nawada, District - Nawada.at present residing at Mohalla Kalami Mohalla, P.S- Aurangabad, District - Aurangabad

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyaya, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 28-02-2017

Heard both sides.

2. The petitioner, by filing this petition under Section 482 of the Code of Criminal Procedure, prayed to quash the order dated 16.08.2014 passed in Misc. case No. 4 of 2014 by which the learned Principal Judge, Family Court, Aurangabad recalled the order dated 27.05.2014, whereby the case was fixed for ex parte hearing, but directed the petitioner to pay Rs. 1500/- as cost.

3. The learned counsel for the petitioner submits that petitioner did not receive any notice and the learned Principal Judge



passed the order and imposed the cost on presumption that petitioner did not appear even after receipt of notice.

4. Having heard the learned counsel for the parties and on going through the records, I find that in the order the learned Principal Judge has stated that registered letter was sent to the petitioner on 30.01.2014 and the same was duly served upon him but despite service of summons the petitioner did not appear and only thereafter the Misc. case was fixed for ex parte hearing. Thereafter, the petitioner appeared and filed petition for recalling the order of ex parte hearing. I find that imposing cost of Rs. 1500 is not at all illegal.

5. Considering the facts aforesaid, I find no illegality in the impugned order. This quashing petition is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
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