

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.718 of 2012

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Nawal Kishore Singh son of Sri Gaya Singh resident of Village Pachamba, P.S.

Muffasil Begusarai, District Begusarai

.... Appellant/s

Versus

Nirmal Devi @ Nirmala Devi wife of Nawal Kishore Singh resident of Village
Pachamba, P.S. Muffasil Begusarai, District Begusarai

.... Respondent/s

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Appearance :

For the Appellant/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

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

Date: 15-04-2015

Husband is the appellant herein. He has challenged the judgment dated 26.07.2011 passed by the Principal Judge, Family Court, Begusarai in Maintenance Case No. 81M of 2006 whereunder after considering the case of the parties, learned Principal Judge, Family Court found that the applicant-wife was neglected by her husband and not provided any maintenance. The Principal Judge,

Family Court also found that she had no source of income and she is unable to maintain herself. The Principal Judge, Family Court while discussing point number III in the impugned judgment found that her husband has 20 bighas of land and a fleet of 9-10 buses. He also found after considering the evidence led by the parties in paragraphs 10, 11 and 12 that the wife had three children and for their maintenance directed the husband opposite party to pay Rs. 1800/- per month to the wife from the date of filing of the case. Appellant husband challenged the said order by filing this appeal on 05.10.2012, that is, after the husband was directed to deposit arrears of maintenance amount as per impugned order until 13.09.2012. The appeal was filed defective. While filing the appeal the second copy of the brief was not even appended for the use by the Companion Judge. There is delay of more than one year in filing the appeal yet limitation petition was not filed along with the memo of appeal. The defects noticed by the stamp reporter were placed before the Lawazima Board on 20.03.2013 when none appeared on behalf of the appellant. Again the matter was placed before the Registrar General on 24.09.2014 even then the defects were not removed. Today also learned counsel for the appellant prayed for one week time to remove the defects. We refused such prayer after perusal of the order and taking note of the conduct of the appellant we are satisfied that appellant only wants to harass his wife for no reason

at all when from the finding recorded by the court below we are satisfied that the wife is suffering as she has no independent source of income and she is on the verge of starvation.

2. In the circumstances, non-payment of meager maintenance amount of Rs. 1800/- is indicative of the malicious intent of the husband who not only own substantial agricultural land but is also owner of 9-10 buses yet he is not paying any maintenance to her and taking all steps to deprive her of the maintenance amount. We not only dismiss the appeal but also direct the Principal Judge, Family Court, Begusarai to recover the entire arrears of maintenance amount by taking all coercive steps against the husband appellant and ensure regular payment of maintenance amount to the wife.

3. Let a copy of this order be communicated to the court below through Fax by the office of the High Court.

(V.N. Sinha, J)

(Ahsanuddin Amanullah, J)

Anjani/-

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