

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 27593 of 2011

Arising out of P.S. Case No. -08 Year- 1994 Thana –Misc.
Case District- BANKA

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Md. Islam S/o Md. Iqbal Hussain R/o Vill. Harna Bujurg, P.S.
Rajoun, Distt. Banka.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Bibi Akbari Khatoon D/o Md. Asad R/o Vill. Harna Bujurg P.S.
Rajoun, P.O. Bujurg Harna, Distt. Banka.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Md. Najmul Hoda, Adv.

For the Opposite Party/s : Mr. Raj Ballabh Singh, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 19-05-2015

No one appears on behalf of the Opposite Party

No. 2 on repeated dates.

The Petitioner seeks quashing of the order dated 16.05.2011 by which the Sub-divisional Judicial Magistrate, Banka has awarded the amount of maintenance of Rs. 500/- per month from the date of application i.e. 23.02.1994 to 2001 and Rs. 800/- per month from 2002 in Misc. Case No. 08 of 1994.

The background facts of the case is that the Opposite Party No. 2 filed an application on 23.02.1994 for grant of maintenance which was allowed at the rate of Rs. 200/- per month. The Petitioner continued to pay this amount till 2001. Later on the application was dismissed by the Magistrate on 13.04.2004 which was challenged by

the Opposite Party No. 2 before the Revisional Court who allowed it. The Petitioner being aggrieved with the revisional order moved the High Court and the Supreme Court which also dismissed his prayer. It is then that finally on 16.05.2011 the Maintenance Case was decided in which the aforesaid order was passed with regard to the quantum of compensation.

The submission of the Petitioner is that even conceding the quantum of increase the Court should not have done so from the date of original order.

Considering the peculiar facts of the case, the application is disposed off with a direction that the Petitioner shall pay to the Opposite Party No. 2 @ Rs. 200/- per month from 20.03.1994 to 16.05.2011. Thereafter, he shall pay maintenance @ Rs. 800/- per month.

The Court below is directed to make calculation of the dues at the aforesaid rate and pass order within a period of three weeks from the date of receipt of the same. The Petitioner shall thereafter pay the dues within a period of four months next.

With these observations, the application is disposed off.

Vikash/-

(Anjana Prakash, J.)

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