

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.879 of 2011

=====

Nirmala Devi, Wife of Vinay Prasad, D/o Jamadar Prasad, resident of Village - Ladauli, Post - Bishunpur Bazar, P.S. - Sidhwaliya, District - Gopalganj, Presently Residing at C/o Jamadar Prasad, of Village - Soran, P.S. - Janta Bazar, District - Saran.

.... Appellant

Versus

Vinay Prasad, Son of Shri Kunwar Prasad, Resident of Village - Ladauli, Post - Bishunpur Bazar, P.S. - Sidhwaliya, District - Gopalganj.

.... Respondent

=====

Appearance :

For the Appellant : Mr. Ashok Kumar, Advocate.

For the Respondent : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

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

Date: 16-04-2015

Heard learned counsel for the appellant.

2. Wife is the appellant. She has filed this appeal assailing the order dated 06.06.2011 passed by Principal Judge, Family Court, Gopalganj in M.M. No. 123/2010, whereunder request of the husband, respondent herein, for restitution of conjugal rights has been allowed ex parte.

3. It is submitted on behalf of the appellant that respondent husband having married for the second time it is not possible for her, her daughter to join the matrimonial home.

4. The order impugned is ex parte. In the circumstances, instead of proceeding to issue notice in this appeal, we deem it expedient to direct the appellant to appear before Principal Judge, Family Court, file a petition for recall of the ex parte order. No sooner petition for recall of the ex parte order is filed, the court below will issue notice to the husband respondent and after securing his appearance in the proceeding recall the ex parte order, permit the parties to file pleadings, proceed in accordance with law, dispose of the case within a reasonable time not exceeding three months from the date of appearance of the husband in the court below in the light of this order.

5. The appeal is, accordingly, disposed of.

6. In view of the order passed, Limitation Application is not required to be considered.

(V.N. Sinha, J)

(Ahsanuddin Amanullah, J)

P.K.P.

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