

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20363 of 2014

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Uday Chand Paswan

.... Petitioner/s

Versus

Pinki Kumari

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Sinha

For the Respondent/s : Mr. Rajendra Kumar Jain

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 01-12-2015

At the time of hearing of the I.A. No.2658 of 2015, the

learned counsel appearing on behalf of the respondent objected the maintainability for registering this application as civil writ jurisdiction cases. According to the learned counsel, in view of decision of Division Bench of this Court in the case of Raj Kumar Sah v. The State of Bihar & Anr., 2008(4) PLJR 817, civil writ jurisdiction case is not maintainable. The learned counsel submitted that the petitioner may file either quashing application or criminal writ case.

On the other hand, the learned counsel appearing on behalf of the petitioner submitted that this application is maintainable because the order passed by the Court below is interim order and according to the Division Bench decision relied upon by the learned counsel for the respondent also, the Family Court exercises jurisdiction of a Magistrate while deciding the



matter under Chapter IX of the C.P.C. and also the Family Court exercises the jurisdiction of a Civil Court. The learned counsel further relied upon the decision of the Supreme Court in the case of Radhey Shyam & Anr. v. Chhabi Nath and others, 2015(2) BBCJ 144(SC)=(2015)5 Supreme Court Cases 423 and also a Single Bench decision of this Court in the case of Archana Kumari vs. Shailesh Sharma, 2010(1) PLJR 241.

Perused the decisions relied upon by the learned counsel for the petitioner. The Division Bench decision of this Court in the case of Raj Kumar Sah(supra), it has been clearly decided that the Family Court exercises two types of power. Suits and proceeding except the proceeding under Chapter IX of the Code of Criminal Procedure are decided by the Family Court as a District Court or a Subordinate Civil Court and while dealing with the proceeding under Chapter IX of the Code of Criminal Procedure exercises the jurisdiction of the Judicial Magistrate 1st Class. In the circumstances, when orders have been passed in exercise of the power of the Judicial Magistrate 1st Class, revision before this Court under Section 19(4) of the Act cannot be termed as Civil Revision. The order passed under Chapter IX of the Code of Criminal Procedure by a Family Court is revisable under Section 19(4) of the Act as a Criminal Revision. If now the final order is

revisable in a Criminal Revision then how the validity of the interim order can be gone into in Civil Writ.

In my opinion, this Civil Writ is not maintainable and, therefore, this writ application as Civil Writ is not maintainable. Accordingly, this writ application is dismissed. Consequently, the I.A. is rejected.

(Mungeshwar Sahoo, J)

Saurabh/-

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