

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.550 of 2013

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Shabnam Kumari Daughter Of Sri Chandra Shekhar Pd. Thakur Resident Of
Mohalla- Azad Colony, Maripur, Road No.- 3, P.S.- Kazi Mohammadpur, District-
Muzaffarpur

.... Applicant/Appellant

Versus

Santosh Kumar Thakur Son Of Ramashish Thakur Resident Of Village- Hanuman
Nagar, P.S.- Singhwara, District- Darbhanga, At Present Address Flat No. 242, Plot
No. 16, Arunachal Apartment, Sector- 7, Dwarka, New Delhi- 45

.... Opposite party/Respondent

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Appearance :

For the Appellant/s : Mr. Shekhar Singh, Advocate
Mr. Shree Nivas Madhuvan, Advocate
For the Respondent/s : Mr. Rohit Mishra, Advocate

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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: 09-04-2015

Delay of one day in filing the present appeal is condoned
for the reasons indicated in the limitation petition, bearing I.A. No.
7057 of 2014.

2. I.A. No. 7057 of 2014 is, accordingly, disposed of.

3. Heard learned counsel for the appellant and the
respondent and with their consent, we have heard the matter on merit.

4. Appellant-wife has challenged the order dated
24.06.2013 passed by Principal Judge, Family Court, Muzaffarpur in
Misc. Case No. 50 of 2009 whereunder maintenance amount of Rs.
4,000/- directed to be paid by the High Court under order dated

01.10.2010 passed in Miscellaneous Appeal No. 670 of 2008 to the appellant has been ordered to be deposited in the bank account of the minor daughter of the appellant.

5. It is submitted on behalf of the appellant that as per the arrangement ordered under the impugned order, the amount deposited by the respondent in the account of the minor is not being withdrawn and thereby both appellant and her minor daughter are suffering. In this connection, it is also pointed out that in the light of the order of the High Court, maintenance amount was directed to be paid for both the appellant and her minor daughter. The daughter is presently admitted in Boarding School in the State of Kerala and her expenses in Kerala School is being provided by the respondent. The amount deposited is not being withdrawn and thereby the appellant is on the verge of starvation.

6. Having considered the claim, we are satisfied that the order impugned not only violates the order of the High Court dated 01.10.2010, but also infracts the right to life of the appellant, as she has nothing to support herself.

7. In the circumstances, we set aside the impugned order dated 24.06.2013 passed in Misc. Case No. 50 of 2009 and direct the respondent to keep on depositing the maintenance amount of Rs. 4,000/- in the bank amount of the appellant details whereof is given hereinbelow:

Name of the Bank – Central Bank of India

Name of the Branch – Maripur, Muzaffarpur

Savings Account No. – 3221504450

8. It is submitted on behalf of the appellant that she has not withdrawn any amount from the account of her minor daughter pursuant to the impugned order dated 24.06.2013.

9. In view of the fact that appellant has not been able to use the maintenance amount from 24.06.2013 either for herself or for her minor daughter, she should be paid arrears of maintenance amount from 24.06.2013 till March, 2015 by May, 2015. Once the arrear of the maintenance amount is deposited, the appellant has undertaken to appear in the court below in G.S. No. 02 of 2010 pending in the Court of Principal Judge, Family Court, Muzaffarpur to contest the custody matter of the child. In the event appellant does not appear in the said case, it shall be open for the respondent to invite the attention of this Court by filing interlocutory application in this appeal itself.

10. In the result, the appeal stands allowed.

(V.N. Sinha, J.)

(Ahsanuddin Amanullah, J.)

Arjun/-

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