

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.517 of 2016**

**In
MA 654 of 2014**

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Santosh Kumar

.... Appellant/s

Versus

The State of Bihar & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kr Singh No.1

For the Respondent/s : Mr. D.P.Tiwary

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

3 28-09-2016 Heard the learned counsel for the petitioner and the

learned counsel for the respondents.

Perused the impugned order dated 27.03.2014 passed by
learned Principal Judge, Family Court, Patna in Matrimonial Case
No.486 of 2012 whereby the learned Court below directed the
petitioner to pay monthly maintenance of Rs.10,000/- under
Section 24 of the Hindu Marriage Act.

The learned counsel for the petitioner submitted that in
fact, the petitioner was a daily labour and was earning Rs.50 per
day only. The petitioner is now jobless and has got no income.
The alleged factory, which was the factory of the father, was not
factory rather the Alta and Plastic factory, in which cap of the Alta
bottle was prepared and the same has already been closed, as such,
the petitioner has got no income to comply the order passed by the

Court below.

On the other hand, the learned counsel for the respondents submitted that all these submissions made by the petitioner are incorrect. The factory is still going on and in fact, one of the factories is run by the present petitioner. Only with a view to defeat the order passed by the Court below, the petitioner is making such statements before this Court.

From perusal of the impugned order, it appears that whatever argument is being raised by the petitioner has already been considered by the trial court and then found that admitted fact is that there are two factories one of Alta and the other of Plastic in the name of his father. In divorce petition, the husband himself made some statements at paragraph 13, 14 and 15 and after perusing the said statements, the Court came to the conclusion that there was dispute between the husband and wife for the transfer of the ownership of the Plastic factory in the name of the opposite party and the opposite party was insisting the petitioner to transfer the ownership of the factory in favour of the opposite party. On these statements, the Court came to the conclusion that there are two factories and, therefore, disbelieved the case of the petitioner that he is only a daily wager having earning of Rs.50 per day.

Now, therefore, on the same set of facts, which were considered by the Court below and the Court below has taken a view, in such circumstances, for the purpose of supervising the order passed by the Court below, this Court cannot take another view under Article 227 of the Constitution of India.

So far the submission that the factories have been closed is concerned, this is only the submission before this Court and while hearing the application under Article 227 of the Constitution of India, these new facts cannot be considered as this Court is not acting as an appellate court or revisional court.

So far the submission that the petitioner is jobless is concerned, it may be mentioned here that this is only the statement of the petitioner. This statement has already been disbelieved by the Court below. Therefore, it can very well be said that the petitioner is avoiding to disclose his income. It is admitted fact that two factories are running and according to the wife, the husband is running one factory. There was dispute regarding transfer of ownership. The wife was insisting for transfer of ownership in her name.

Considering the above facts and circumstances of the case and the order passed by the Court below, in my opinion, no case for interference in exercise of supervisory jurisdiction is

made out as the learned Court below approximately assessed the monthly income and has directed the husband to pay the amount as stated above.

Thus, this Civil Miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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