

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.696 of 2016**

=====

Kamlesh Ojha

.... Appellant/s

Versus

Shushma Devi & Anr

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Prabhat Kumar Singh

For the Respondent/s : Mr.

=====

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

2 23-09-2016

Heard the learned counsel for the petitioner.

Perused the impugned order dated 07.05.2016 passed by Principal Judge, Family Court, Ara in Matrimonial Case No.429 of 2014 whereby the learned court below directed the husband-petitioner to pay Rs.5,000/- per month as maintenance under Section 24 of the Hindu Marriage Act.

It appears that the wife-respondent filed application under Section 24 of the Hindu Marriage Act alleging that she has got no source of income and the husband is not maintaining her. According to her, the husband is skilled labour and is working in a private good company at Delhi and earn Rs.30,000/- per month. The husband has also 40 bighas land and orchard from which he earned Rs.40,000/- per month.

The husband-petitioner filed reply to the said application denying the allegation that he is a skilled labour and he alleged

that he is only a labour and that he has no landed property. The Court below considered these applications and reply filed by the parties and then has passed the impugned order.

From perusal of the impugned order, it is clear that so far the husband-petitioner is concerned, he is not disclosing his income. He has only denied the allegation made by the wife.

This Court in the case of **Veena Kumari v. Srikant @ Sanjay, 2004(4) PLJR 533** has held that when husband is avoiding to declare his income and if it is found that the wife has no source of income, then the contention of the wife regarding the income of the husband is to be accepted.

Further, it is settled principles of law that the determination of the monthly rate is pure question of fact and, therefore, the Court in exercise of jurisdiction under Article 227 cannot hold panchayati and determine the rate of the monthly maintenance under Section 24 particularly when the husband himself is not disclosing the income. Thus, in my opinion, this is not a case for interference in supervisory jurisdiction.

Accordingly, this Civil Miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

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