

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1145 of 2016**

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Om Prakash Kumar @ Lal Babu Pandit

.... Appellant/s

Versus

Demanti Devi

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bhaskar Shankar

For the Respondent/s : Mr.

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

ORAL ORDER

2 22-11-2016 Heard the learned counsel, Mr. Bhanu Pratap Singh for
the petitioner.

Perused the impugned order dated 11.05.2016 whereby
the learned Court below has directed the husband-petitioner to pay
Rs.2,500/- per month as maintenance to the wife-respondent under
Section 24 of the Hindu Marriage Act in addition to Rs.750/- fixed
by the High Court in quashing application.

The learned counsel for the petitioner submitted that the
petitioner is poor person and is below poverty line and his income
is only Rs.5,000/- per month, therefore, he is unable to pay the
amount fixed by the matrimonial court by the impugned order.
According to the learned counsel, the petitioner is ready to pay the
maintenance but the same may be reduced.

From perusal of the impugned order, it appears that the

Court below has taken note of the fact which are being submitted before this court and thereafter, considered the case of the wife that the petitioner earned Rs.30,000 to 40,000 per month as agent of L.I.C. and also has got 1 ½ bigha agricultural land and thereafter passed the order impugned .

The Hon'ble Supreme Court in the case of **Jai Singh and others v. Municipal Corporation of Delhi and another, (2010) 9 Supreme Court Cases 385** has held that the High Court cannot lightly or liberally act as an appellate court and reappreciate the evidence. Generally it cannot substitute its own conclusion for the conclusion reached by the courts. In the present case, the materials are same. The arguments advanced are same, therefore, merely because the High Court will be in a position to take another view, the High Court cannot substitute its own view or conclusion in place of the conclusion arrived at by the appellate court for the purpose of supervising the order impugned.

A division Bench of this Court in the case of **Jitendra Kumar @ Jitendra Dhiman v. State of Bihar & Ors., 2003(4) PLJR 523** has held that in exercise of jurisdiction under Article 227 of the Constitution of India, the High Court cannot hold panchayati and fixed the maintenance under Section 24 of the Hindu Marriage Act.

Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction and accordingly, this Civil Miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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