

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.319 of 2016**

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Niraj Kumar @ Sitanshu Kumar

.... Appellant/s

Versus

Smt. Bibha Bharti & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dharendra Nath Jha

For the Respondent/s : Mr.

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

2 18-08-2016

Heard learned counsel for the petitioner.

From perusal of the impugned order dated 19.02.2016 passed by the Principal Judge, Family Court, Bhagalpur in Matrimonial Case No. 190 of 2010, it appears that the court below recorded evidences of both the parties for deciding the ad-interim maintenance under Section 24 of the Hindu Marriage Act and thereafter, on considering the evidences prima facie recorded a finding that the respondent's wife is only housewife. Thus, the court below directed the petitioner to pay Rs. 3000/- per month as maintenance and Rs. 20000/- as litigation cost.

The Hon'ble Supreme Court in the case of Jai Singh and Anr. Vs. Municipal Corporation (2010) 9 Supreme Court Cases 385 has held that the exercise of jurisdiction under Article 227 of the Constitution of India must be within the well recognized constraints. It cannot be exercised like a "bull in a

china shop", to correct all errors of judgments of a court, or tribunal, acting within the limits of its jurisdiction. This Correctional jurisdiction can be exercised where orders have been passed in grave dereliction of duty or in flagrant abuse of fundamental principles of law or justice. 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 court below or the statutory / quasi judicial tribunals.

In view of the this legal position, the finding recorded by the court below on the basis of the evidences and materials available on record cannot be supervised in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

Thus, this Civil Miscellaneous Application is dismissed.

(Mungeshwar Sahoo, J)

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