

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.512 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

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Aftab Ahmad S/o - Late Nooruddin Ahmad R/v - Adalatganj, Quarter Block no. - 14, Flat No. - 4, High Court Colony, P.O. - G.P.O., P.S. - Kotwali, Distt. - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. Sanowar Jahan D/o - Late Abdul Moghni R/m - Belchi, House - Darzee Tola, Sabzibagh, P.S. - Pirbahore, P.O. Bankipur, Distt. - Patna.

.... Respondent/s

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Appearance:

For the Petitioner/s	:	Mr. Vijay Kumar Sinha, Advocate. Mr. Arvind Kumar Srivastava, Advocate.
For the Respondent/s	:	Mr. Anand Pd. Singh, SC-15. Mr. Sanjay Kumar, AC to SC-15. Mr. Hemant Pd. Singh, AC to SC-15.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
ORAL JUDGMENT
Date: 16-09-2016

Heard learned counsel for the parties.

2. The petitioner has invoked the writ jurisdiction of this Court claiming a writ in the nature of prohibition for quashing order dated 02.06.2015 passed by the Family Court, Nalanda. By the said order, the Family Court has passed an order that on payment of the balance maintenance amount, the further steps will be taken.

3. I find that the present petition for prohibition against an order passed by the Family Court is misconceived. An order passed by the Competent Court can be challenged only by way of appeal or revision and not by seeking writ of prohibition. The entire

basis of the writ petitioner is misconceived, untenable and in fact, by way of mischief since he happens to be the employee of this Court.

4. The entire claim of the petitioner is based upon an order passed by this Court in Criminal Revision No. 1018 of 2009 dated 05.12.2012, wherein the petitioner was directed to pay maintenance of Rs. 5000/- per month but to be deducted from the salary of the petitioner. It was argued that the petitioner is not liable to make payment as the same is liable to be deducted from the salary of the petitioner.

5. The fact whether the payment is being deducted from the salary of the petitioner or not will not absolve the petitioner from his liability to pay the maintenance as directed by this Court vide order dated 05.12.2012.

6. In view of the said fact, I find that the present petition is wholly misconceived and the same is dismissed.

7. Admittedly, that the order of the Court of grant of maintenance is being flouted on one pretext or the other and the fact is the petitioner has not paid monthly maintenance amount. Consequently, I *suo moto* initiate proceedings of contempt as nonpayment of the maintenance is in violation of the order dated 05.12.2012 passed by this Court.

8. The office to register an M.J.C. and assign a separate

number. Learned counsel for the petitioner accepts the notice and seeks some time to file counter affidavit. Let the counter affidavit be filed within two weeks.

9. List on 5th of October, 2016.

(Hemant Gupta, J.)

Mishra/-

AFR/NAFR	N.A.F.R
CAV DATE	N.A.
Uploading Date	22.09.2016
Transmission Date	