

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16061 of 2015

=====

1. Sunil Kumar Thakur @ Sunil Kumar Sharma Son of Madan Sharma
Resident of Village-Maniyarpur P.s Kalyanpur P.o. Muktapur District
Samastipur.

.... Petitioner/s

Versus

1. Babita Kumari @ Babita Sharma wife of Sunil kumar thakur@Sunil
kumar Sharma, daughter of Ram Nandan Thakur@Ramnandan Sharma
Resident of Teacher's Colony Pusa, Po. Mohammadpur Devpar,P.s Pusa
district Samastipur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rohit Kumar

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 20-06-2016 Heard Mr. S.N.P. Singh, Senior counsel for the
petitioner.

This application under Article 227 of the Constitution
of India has been filed against the order dated 17.08.2015 passed
by the learned Principal Judge, Family Court, Samastipur, in
Divorce Case No. 287 of 2011 whereby the court below directed
the petitioner to pay Rs.10,000/- per month as maintenance and
Rs. 2,000/- per date as litigation cost.

From perusal of the impugned order it appears that
the court recorded the finding that the petitioner had business of
manufacturing suit case in Delhi. The court below also found that
he had a house there but he sold the same.

Learned counsel for the petitioner submitted that in fact because of fear of the respondent and the person with whom she is residing in Delhi, the petitioner in fact, sold his establishment and now he is residing at Samastipur, in his village and he has no source of livelihood.

It is admitted fact that nothing was produced by the petitioner in support of his contention. Only statements were made before the Court.

This court in the case of **Veena Kumari Vs. Srikant @ Sanjay, 2004 volume 4 PLJR page 533** has held that when husband is avoiding to declare his income then the contention of the wife is to be accepted by the court.

Therefore, on the basis of the statement made by the wife the court below directed the petitioner to pay the maintenance of Rs.10,000/- per month under Section 24 of the Hindu Marriage Act.

In such circumstances, it can not be said that the order passed by the court below is without jurisdiction and is contrary to law or it occasion failure of justice. It is well settled principle that while exercising jurisdiction under Article 227 of the Constitution of India, the High Court can not hold Panchayati and fix the rate of maintenance under Section 24 of the Hindu

Marriage Act.

In my opinion, therefore, it is not a fit case for interference in supervisory jurisdiction.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

siddharth/-

U			
---	--	--	--