

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 12350 of 2014

=====

Rahul Kumar, Son of Arun Kumar, Resident of Village - Bola, P.S. -
Naubatpur, Distt. - Patna

.... Petitioner

Versus

Rekha Kumari, D/o Sheo Pujan Sharma, Resident of Village - Kubri, P.S. -
Mehandia, Distt. - Arwal

.... Respondent

=====

Appearance :

For the Petitioner : Mr. Rudra Deo, Advocate

For the Respondent : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

2 29-08-2016

Heard Mr. Rudra Deo, the learned counsel appearing

on behalf of the petitioner.

Questioning the legal sustainability of the impugned order by which the learned court below has allowed the prayer of the opposite party in a miscellaneous case for grant of interim maintenance and the litigation court under Section 24 of the Hindu Succession Act, the present application under Article 227 of the Constitution of India has been filed.

The learned counsel for the petitioner has submitted that there had been no legal marriage of the petitioner with the opposite party and, therefore, the learned court below has committed error of jurisdiction without deciding the said question first before allowing the prayer for grant of interim maintenance.

Elaborating his submission, the learned counsel for



the petitioner has delved upon the merits of the case which has been pleaded on behalf of the petitioner in the matrimonial case itself in order to establish the invalidity of the marriage with the petitioner in accordance with law. The emphasis has again and again been laid that the learned court below should have decided the question regarding the validity of the marriage and only thereafter the petitioner should have been asked to pay the interim maintenance.

After considering the submissions and perusal of the materials on record as well as the impugned order, this Court finds that the learned court below has passed the impugned order after considering the materials on record including the evidence relating to the income of the petitioner. The learned court below has also taken into notice the facts as pleaded by the petitioner and the opposite party and thereafter has recorded its satisfaction for grant of the prayer for interim maintenance under Section 24 of the Hindu Marriage Act.

During the course of submission, the learned counsel for the petitioner has expressed his inability to cite any provision requiring the Court to first decide the validity of the marriage before passing order under Section 24 of the Hindu Marriage Act for grant of interim maintenance.

In the backdrop of aforesaid facts and reasons, this Court is not inclined to invoke the jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order as prayed. It is, however, also taken into notice that the learned counsel for the petitioner has submitted that the interim maintenance, as directed by the impugned order, is being regularly paid by the petitioner to the opposite party.

This application is, accordingly, dismissed.

(V. Nath, J.)

Kundan

U			
---	--	--	--