

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.40 of 2015

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1. Mahesh Kumar, S/o Bhushan Thakur, resident of Tarengana, Gola Block Road, P.O.+P.S.- Masaurhi, Dist.- Patna. Appellant

Versus

1. Rekha Kumari, W/o Mahesh Kumar, D/o Sri Sukhdeo Sharma, resident of Vill.- Panchshil Nagar, Near College, P.O.+P.S.- Barh, Dist.- Patna. Respondent

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Appearance :

For the Appellant/s : Mr. Bamdeo Pandey, Advocate

For the Respondent/s : Mr. Brij Bihari Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

4 19-11-2016 The appellant is estranged husband. The respondent wife has appeared. The delay in filing the appeal is condoned and I. A. No. 8373 of 2015 is hereby allowed.

Heard the parties.

The court of Additional Principal Judge, Family Court, Patna in Matrimonial Suit No. 141 of 2001 by judgment dated 14.10.1991 while granting decree of divorce fixed monthly maintenance to be paid by the appellant to his wife at the rate of Rs. 3000/- per month. The court further observed that the husband would continue to pay this amount every month to the wife till the permanent alimony is decided. This judgment and decree was of the year 2014.

Learned counsel for the appellant submits that he cannot

afford to pay Rs. 3000/- for the maintenance to his wife. We have considered the matter and of the view that in the present day context fixing Rs. 3,000/- per month as maintenance is not abnormally high. However, as we find from the judgment and decree of the trial court itself that this 3 thousand rupees be paid on monthly basis as maintenance so long as permanent alimony under Section 25 of the Hindu Marriage Act is not quantified and paid. Thus, to that extent, a proceeding in terms of fixing of permanent alimony would be deemed to be pending before the Family Court, at Patna. In our opinion, no interference in the order is required at this stage. Thus appeal is thus, dismissed.

However, pursuant to the orders passed by the trial court, we would direct the trial court to take evidence and make such inquiry as it deems fit and determine the amount payable as permanent alimony and fixed the same, so that the matter finally stands concluded.

With this observation, this appeal stands dismissed.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

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