

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9977 of 2015

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Md. Labeeb Akhter

.... Petitioner/s

Versus

Smt. Aarfa Nasim

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahmood Alam

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 26-04-2016

Heard learned counsel appearing for the petitioner.

This application under Article 227 of the Constitution of India has been filed by the petitioner against the order dated 25.04.2015 passed by the Principle Judge, Family Court, Patna in Matrimonial Case No. 5217 of 2014, whereby the court below has rejected the plaint/petition under Order 7 Rule 11 Clause-D of the C.P.C.

2. Now, according to Section 2 Sub-Section 2, decree includes rejection of the plaint. Now, therefore, also this writ application under the Constitution of India is not maintainable, particularly, when the petitioner has got remedy under the statute. Secondly, since the Matrimonial Case No. 5217 of 2014 has been disposed of finally by the impugned order dated 25.04.2015, it is appealable under Section 19 of the Family Court Act, 1984 as it is not an interim order. Section 19 Sub-Section 6 of the Family Court

Act, 1984 provides that an appeal preferred under Sub-Section 1 shall be heard by a Bench consisting of two or more Judges. Therefore, under this provision also, the petitioner has got remedy. In my opinion, therefore, in no case, this application under Article 227 is maintainable. Accordingly, this writ application is dismissed. However, the petitioner may avail the appropriate remedy before the appropriate forum by filing appropriate proceeding.

(Mungeshwar Sahoo, J)

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