

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.297 of 2016

=====

Binita Sinha

.... Appellant/s

Versus

Dr. Braj Bhushan Sinha

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Shailendra Kumar

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

3 24-11-2017

None appears for the petitioner.

Perused the office notes.

An issue has been raised by the Stamp Reporter regarding the maintainability of this appeal which has been preferred under Section 19(1) of the Family Court Act, 1984.

This appeal has been preferred assailing the order dated 19.03.2016 passed by the Principal Judge, Family Court, Biharshariff, Nalanda in Matrimonial Case No. 26/ 2014 by which ad interim maintenance of Rs. 2,000/- per month has been allowed to the wife under Section 24 of the Hindu Marriage Act. The Stamp Reporter has raised the issue that against such order no appeal is available under Section 19(1) of the Family Courts Act as Civil Miscellaneous Case under Article 227 of the Constitution of India would be the proper remedy. The issue is no longer *res*



integra having already been considered and decided by a Full Bench of this Court in Neelam Kumari Sinha Vs Prashant Kumar 2010 (3) PLJR 632. Neither appeal nor revision would lie against such orders, which are obviously interim order passed during a matrimonial proceeding and, as such, remedy would be under Article 227 of the Constitution of India.

Accordingly we hold that this appeal would not be maintainable. However, the appellant, if so advised, would be at liberty to convert this appeal into Civil Miscellaneous Case under Article 227 of the Constitution of India within a period of two weeks.

(Dr. Ravi Ranjan, J)

(S. Kumar, J)

veena/-

U			
---	--	--	--

