

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.183 of 2017

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Sushil Kumar Singh @ Vicky

.... Appellant/s

Versus

Smt. Sunita Kumari @ Guddi @ Gudda

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Surendra Kishore Thakur

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 02-02-2017 Heard the learned counsel Mr. Surendra Kishore Thakur
for the petitioner.

Perused the impugned order dated 15.12.2016 passed by the Principal Judge, Family Court, Jehanabad in Matrimonial Case No. 11 of 2016, whereby the learned Principal Judge, Family Court has directed the petitioner to pay Rs. 8,000/- as monthly maintenance under Section 24 of the Hindu Marriage Act. The grievance of the petitioner is that the petitioner is a Niyojit Teacher i.e. he has been appointed on the basis of contract and is getting Rs. 11,000/- and are only per month, but because the petitioner could not file the salary slip, the court below has presumed the income of the petitioner to be Rs. 30,000/-.

Admittedly, the petitioner had not produced the salary slip in the court below on /before the application under Section 24 of the Hindu Marriage Act was heard. The documents have been



annexed here. In this civil misc. application this Court while exercising jurisdiction under Article 227 cannot act as an appellate court and appreciate the evidence that too without there being any contrary evidence and without hearing the opposite parties.

I, therefore, direct the petitioner to file the application in the court below for recall of the order/modification of the order impugned with the documents which he is relying and then if such application is filed, the court below after hearing the other side pass a fresh order but during this period the petitioner at least must pay/deposit Rs. 3,000/- in the court below to show him bonafide.

In view of the above facts and circumstances of the case, this civil misc. application is disposed of with direction to the petitioner to approach the court below as aforesaid.

(Mungeshwar Sahoo, J.)

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