

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.494 of 2017

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Suved Kumar Son of Girja Nand Mandal Resident of Village- Tikaili, P.S. Dand Khora, District-Katihar.

.... Appellant/s

Versus

Rashmi Priya Wife of Suved Kumar, Daughter of Ganesh Mohan Vishwash, Resident of Village- Siranda, P.S.- Pranpur, District- Katihar at Present resided at Mohalla- Prabhat Nagar, Near D.S. College, P.S. Katihar town, District- Katihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bimal Kumar, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 04-05-2017

Heard Mr. Vinod Kumar, learned counsel for the petitioner in I.A. No. 3374 of 2017 as well as on the merit of this application.

The present application has been filed by the husband-petitioner assailing the legal tenability of the impugned order by which the learned court below has allowed the prayer of the wife-respondent under Section 24 of the Hindu Marriage Act and directed the petitioner to pay Rs. 3000/- per month by way of interim maintenance as well as for expenses of the proceeding till the disposal of the case.

Learned counsel for the petitioner has submitted that the



learned court below has wrongly proceeded on the assumption that the monthly salary of the petitioner is Rs. 35000/-. It has been contended that the petitioner is a Panchayat teacher and his monthly salary cannot be Rs. 35000/-. It has also been submitted that the petitioner has filed a petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights but the wife-respondent has been refusing to live with the petitioner. After elaborating the facts, learned counsel has submitted that the learned court below has passed the order awarding the amount of maintenance which is excessive in the facts and circumstances of the case.

After considering the submissions and perusal of the materials on record as well as the impugned order, it is transparent that the proceeding has been initiated under Section 9 of the Hindu Marriage Act at the instance of the petitioner. The fact is not in dispute that the respondent is the legally married wife of the petitioner. From the impugned order as also from the materials on record, it does not appear that any cogent evidence has been led on behalf of the petitioner to show that his monthly salary is not Rs. 35000/- as asserted by the wife respondent in the proceeding. Even before this Court no material has been pointed out that the monthly salary of the petitioner is below Rs. 35000/-. Though the learned counsel for the petitioner has submitted that the monthly salary of the



petitioner is only Rs. 14000/- but there is no material on record to substantiate the said submission. In the background of aforesaid facts, this Court does not find that the learned court below has committed illegality in allowing the prayer for interim maintenance to the wife respondent at the rate of Rs. 3000/- per month. This Court, therefore, declines to invoke the jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order.

The application is accordingly, dismissed.

The learned court below shall proceed for expeditious disposal of the case in view of the nature of the dispute arising between the parties.

(V. Nath, J)

Devendra/-

AFR/NAFR	
CAV DATE	
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