

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.757 of 2014

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1. Fazal Hussain Son of Late Pir Mohammad Resident of Mohalla-Nadragan Chhotki Daha, P.S.-Civil Lines, District-Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. Hamida Khatoon Wife of Fazal Hussain
3. Md. Miraj Daughter of Fazal Hussain
2 and 3 are resident of Mohalla-Nadraganj Chhotki Daha, P.S.-Civil Lines, District-Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : NONE

For the Respondent/s : Mr. A.L.Pandit(App)

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

7 11-07-2017 There is no representation on behalf of the petitioner. Learned Additional Public Prosecutor for the State of Bihar and learned Counsel representing Opposite Party No. 2 are present.

The absence appears to be deliberate in view of the observation made by this Court in the order, dated 22.02.2017. The petitioner had sought for time to file reply to counter affidavit filed on behalf of Opposite Party No. 2, who is wife of the petitioner.

By the impugned order, dated 28.02.2014, passed by learned Principal Judge, Family Court, Gaya, in Misc. Case No. 12 of 2009, a sum of Rs. 3,000/- has been allowed as monthly maintenance allowance in favour of



Opposite Party No. 2 under Section 125 of the Code of Criminal Procedure, 1973, which is under challenge in the present revision application.

It will be evident from the order, dated 22.02.2017, that the petitioner had taken specific plea that he did not have any other immovable property except a small shop at Kolkata. The Court had observed in the said order, dated 22.02.2017, that the Court may enhance the monthly maintenance allowance to Rs. 6,000/- if the petitioner's stand was found to be incorrect.

However, in the facts and circumstances of the case, the impugned order, fixing monthly maintenance allowance at the rate of Rs. 3,000/- does not require interference.

This revision application is, accordingly dismissed.

The Opposite Party No. 2 shall, however, have the liberty to apply for enhancement of the monthly maintenance allowance before the learned Court below in accordance with law.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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