

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41591 of 2013

Arising Out of PS.Case No. -null Year- null Thana -null District-
EASTCHAMPARAN(MOTIHARI)

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1. Kumar Satyendra Prasad Son Of Jagnath Prasad Resident Of Village - Sirsiya
Khurd, P.S.&P.O.-Adapur, Dist.-East Champaran

.... Petitioner/s

Versus

1. The State Of Bihar Through Secretary Dept. Of Law
2. Jaganath Prasad Son Of Late Dhansi Prasad Sah Resident Of Village Sirsiya
Khurd, P.O.- & P.S.-Adapur, Dist.-East Champaran
3. Akhilsh Prasad Son Of Late Dhansi Prasad Sah Resident Of Village Sirsiya
Khurd, P.O.- & P.S.-Adapur, Dist.-East Champaran
4. Smt. Savitri Devi Wife Of Akhilesh Kumar Sah Resident Of Village Sirsiya
Khurd, P.O.- & P.S.-Adapur, Dist.-East Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 11-04-2017

The present petition has been filed for quashing the order dated 28-05-2013 passed by the Principal Judge, Family Court, Motihari in Misc. Case No. 132 of 2008, by which and whereunder, the learned Family Court has passed an order directing the Executive Director, Essar Power Jharkhand Ltd., the employer of petitioner to deduct Rs. 7,000/- per month from the petitioner's salary and same be deposited in the account of opposite party No. 2 in the Bank of India, Motihari branch till arrear of Rs. 1,79,700/- gets adjusted.

Heard learned counsel for the petitioner and opposite party No. 2.

The petitioner is son of opposite party No. 2. It is admitted position that earlier Family Court by order dated 13-05-2009 passed



in Maintenance Case No. 132 of 2008 directed opposite party No. 2 to make payment of maintenance of Rs. 3,000/- per month to his father (opposite party No. 2). It is mentioned in the aforesaid order itself that the petitioner has retired from service in the year, 1989 and his service was not pensionable. It is also an admitted position that the aforesaid order dated 13-05-2009 passed in favour of the opposite party No. 2 was never challenged by the petitioner in any competent court. But in spite of that, the petitioner did not comply the aforesaid order and makes payment of aforesaid amount. Thereafter, on the basis of petition filed by opposite party No. 2, the impugned order has been passed by the court below directing the Executive Director, Essar Power Jharkhand Ltd., the employer of petitioner to deduct Rs. 7,000/- per month from the petitioner's salary and same be deposited in the account of opposite party No. 2 in the Bank of India, Motihari branch so that arrear of Rs. 1,79,700/- be adjusted.

During hearing of this Cr. Misc. Petition, it has been submitted on behalf of the petitioner that the father (opposite party No. 2) has received the retirement benefit amount, which is sufficient for his maintenance. In reply to the aforesaid submission, the counsel for the opposite party No. 2 has submitted that he has purchased the land in the name of this petitioner and one another son from that amount after retirement. He is at present solely dependant on his son. This petitioner is not maintaining him rather he has filed Partition Suit



No. 234 of 2005 against him.

After going through the record of this case and the impugned order as well as the earlier order dated 13-05-2009 passed in Matrimonial Case No. 132 of 2008, this court is of the view that the petitioner is duty bound to comply the aforesaid order of court to make payment of maintenance amount to opposite party No. 2 till the aforesaid order is disturbed by any competent court. It is admitted position that the aforesaid order is still in effect and was never challenged by the petitioner in any competent court.

In such circumstance, this court finds that the impugned order has been passed by the court below to direct the petitioner to comply the direction passed by the court in the original Maintenance Case No. 132 of 2008 by order dated 13-05-2009, when the petitioner did not comply the aforesaid order.

In such circumstance, this court does not find any illegality in the order passed by the court below. Accordingly this quashing petition is dismissed.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	18-04-17
Transmission Date	18-04-2017

