

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.4360 of 2013

In

Civil Writ Jurisdiction Case No. 1263 of 2012

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Mona Devi @ Mona Singh S/o Ravi Kumar and D/o Swargveer Singh,
Resident of Village Behari Bigha, P.S- Pandarak, District- Patna At Present
Residing At Khadgarha, Near Sukhdeo Nagar, P.S- Sukhdeo Nagar, Ratu
Road Ranchi (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar through Mr. Amir Subhani Home Secretary, Bihar,
Patna.
2. Ravi Kumar S/o Prithvi Raj Singh, Resident of Village And P.O- Behari
Bigha, P.S- Pandarak, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Amarendra Kumar Singh, Advocate

For the State : Mr. Ramadhar Singh, GP-25

For Respondent No.2 : Mr. Sanjay Kr. Pandey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

13 17-03-2017 Petitioner has filed this application for contempt

seeking execution of an order passed by the Principal Judge,

Family Court, Patna in Matrimonial Case No.611 of 2009 on

16.08.2011 modified by this Court in a petition vide Civil Writ

Jurisdiction No.1263 of 2012 under Article 226 of the

Constitution.

The order passed by the Principal Judge, Family

Court, Patna, which was modified by this Court, is in the form of a

decree and the petitioner has remedy to get it executed by the



Principal Judge, Family Court, Patna, in accordance with the relevant provisions for execution of such an order under the Family Court Act or any other law as may be available. The Hon'ble Supreme Court in the case of **R.N. Dey and others vs. Bhagyabati Pramanik and others (2000) 4 SCC 400** has laid down the principle that when an order passed can be executed as a decree, a contempt application is not maintainable and the aggrieved persons should take recourse of remedy available in law for execution of the order dated 16.08.2011.

That being so, when the petitioner has alternative remedy, it is not appropriate to initiate action for contempt. Instead, liberty is granted to the petitioner to get the order passed by the Principal Judge, Family Court, Patna in the matter of granting maintenance *pendente lite* executed.

It is directed that in case the petitioner approaches before the Principal Judge, Family Court, Patna along with a certified copy of this order and files a proceeding for execution, the Principal Judge, Family Court, Patna shall get the order passed by it and modified by this Court executed within a period of 90 days thereof.

In case, the respondent-husband does not co-operate in the execution proceedings, the executing Court shall be free to



take such coercive steps as is permissible in law for getting the order executed. After getting the decree executed, the concerned executing Court shall file a report before the Registrar General showing compliance of this order.

With the aforesaid observations/directions, the application is disposed of.

(Rajendra Menon, CJ)

Narendra/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22.03.2017
Transmission Date	

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