

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1248 of 2016

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Md. Saif Raza son of Md. Ishaque Ansari, Resident of Village- Gangapur,
P.O.+P.S. Kurtha, District- Arwal.

.... Petitioner

Versus

Rizwana Khatoon daughter of Md. Raghib Hasan, Resident of Village- Gangapur,
P.O.+P.S. Kurtha, District- Arwal.

.... Respondent

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Appearance :

For the Appellant/s : Mr. Md. Fahimuddin

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 14-03-2018

Heard learned counsel for the petitioner.

The petitioner has filed this Civil Miscellaneous petition against the order dated 22.07.2016 passed in Matrimonial Case No.100/2015 by the Principal Judge, Family Court, Jehanabad, by which the petitioner was directed to pay Rs. 4000/- as maintenance to his wife and Rs. 5000/- for the litigation cost.

Learned counsel for the petitioner submits that the petitioner filed a Divorce case under Mohammedan law. According to Section 335 of the Mohammedan Law, the wife is not entitled to get maintenance and the cost of litigation. The wife filed petition for ad interim maintenance under Section 24 of the Hindu Marriage Act, which is not at all applicable in Divorce case, filed by a Mohammedan but the learned Principal Judge, Family Court, Jehanabad illegally directed to him to pay maintenance and the litigation cost.



Learned counsel for the petitioner submits that the maintenance case was disposed of and the petitioner is paying maintenance to his wife, in pursuance of the order passed in maintenance case.

Nobody appeared on behalf of the respondent.

Having considered the facts aforesaid and on perusal of record, it appears that the wife filed petition under Section 24 of the Hindu Marriage Act for grant of ad interim maintenance but the same is not applicable in the Divorce case, filed under the Mohammedan Law. On the face of it, it appears that the order of learned Principal Judge, Family Court, Jehanabad is illegal and not sustainable.

Accordingly, the order dated 22.07.2016 passed by learned Principal Judge, Family Court, Jehanabad is set aside and this Civil Miscellaneous petition is allowed.

(Prabhat Kumar Jha, J.)

Amit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.03.2018
Transmission Date	NA

