

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9778 of 2014

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1. Manoj Jain, Son of Late Naveenchand Jain, Resident of Mohalla- Jail Road, Khetari, P.S- Ara Town, District- Bhojpur.

.... Petitioner

Versus

1. Sobha Agrawal, Wife of Manoj Jain and daughter of Gopal Prasad Agrawal, Resident of Mohalla Jail Road Khetari, P.S- Ara Town, District- Bhojpur. At present residing at Mohalla Kali Asthan Near Ganesh Mandir, Patna City, P.S- Chowk, Thana, Patna City, District- Patna.

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Navin Kumar Sinha, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

4 23-03-2018 Petitioner before this Court is the husband of the respondent. He has filed Matrimonial Case No.188 of 2011 on the file of learned Principal Judge, Family Court, Bhojpur at Ara for dissolution of marriage. The respondent appeared in the said case and filed a petition under Section 24 of the Hindu Marriage Act praying therein to direct the petitioner to make payment for her maintenance. The court below after hearing both sides allowed the petition and directed the petitioner to pay an amount of Rs.5,000/- per month to the respondent from the date of order and further Rs.500/- as litigation cost on each and every date of hearing.

2. The petitioner has challenged the said order granting maintenance on the ground that he is a small business man running



a shop of utensils. He had no such income to pay maintenance to the tune of Rs.5,000/- per month. The petitioner had filed earlier Matrimonial Case No.197 of 2010 under Section 9 of the Hindu Marriage Act for restitution of conjugal life as the wife has refused to live with the petitioner at his place. In the said case, as per order of Principal Judge the petitioner is paying an amount of Rs.2,000/- per month to the respondent. As the respondent has refused to live with the petitioner so she is not entitled to any maintenance. It has been further stated that the respondent is a graduate lady having good qualification to earn money. She along with her mother is running two shops which are sufficient to meet her need. The learned counsel for the petitioner on the above ground has prayed to set aside the impugned order.

3. On perusal of the impugned order, it appears that the respondent has asserted that her husband is earning an amount of Rs.30,000/- from the shop of utensils. Besides that she needs an expense of Rs.800/- per day towards litigation. The court below after considering the income of the petitioner, which is not specifically denied by him, has allowed maintenance to the tune of Rs.5,000/- per month. The petitioner has not stated either in this writ application or before the court below regarding his income. The petitioner has not filed any copy of the petition filed under



Section 24 of the Hindu Marriage Act or rejoinder to the said petition before this Court and so it is difficult to appreciate the case of the petitioner as regards his income through the said utensils business. In course of hearing, it has been submitted that the case is at the fag end of trial and after closing the evidence of both sides, the case is pending for argument.

4. Considering the case of both parties I find that the order directing the petitioner to make payment of Rs.5,000/- as monthly maintenance to the respondent and Rs.500/- as litigation cost for each date does not appear to be exaggerated in the present economic scenario. The court below has not committed any jurisdictional error in allowing the maintenance as per impugned order. This writ application as such is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

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