

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.79 of 2016

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Nisar Ahmed son of Late Abdul Lateef, resident of Mohalla- Pachmaha Tola, North R.K. College, Ward No.- 11, P.S.- Madhubani, District-Madhubani. Appellant.

Versus

1. Shabnam Khatoon wife of Nisar Ahmed Daughter of Md. Shamim.
 2. Kahkasan, Daughter of Shabnam Khatoon.
 3. Naus Ahmad, son of Shabnam Khatoon.
 4. Saiyeda, Daughter of Shabnam Khatoon (Respondent No. 2 to 4 are minors and under the guardianship of their mother respondent no. 1)
- All are resident of Mohalla- Karkapatti, P.S.- Madhubani, District-Madhubani. Respondents.
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Appearance :

For the Appellant/s : Mr. Rashid Rais, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
and
HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

02 12-02-2018 This appeal has been preferred against the order dated 23.09.2015 passed by the Principal Judge, Family Court, Madhubani in M.R. Case No.184 of 2012.

It appears from the impugned order that the maintenance case was filed under Section 125 Cr.P.C.

The office has raised an objection that this appeal would not be maintainable as there is no provision of appeal against such orders in the Family Courts Act as Section 19 (2) of the Act completely bars that.

This issue is no longer res integra having been considered



and decided by a Division Bench of this Court rendered in 2008 (4) PLJR 817 (Raj Kumar Sah Vs. The State of Bihar and another), holding that, in such a situation, Criminal Revision under Section 19 (4) of the Family Courts Act, 1984 would be maintainable.

Accordingly, this appeal is held to be not maintainable.

However, the appellant, if so desires, would be at liberty to convert this appeal into Criminal Revision under Section 19 (4) of the Family Courts Act, 1984 within a period of four weeks, failing which this appeal shall stand dismissed without further reference to a Bench.

(Dr. Ravi Ranjan, J.)

(Prakash Chandra Jaiswal, J.)

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