

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.135 of 2017

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Guddu Ram

... .. Appellant/s

Versus

Sangeeta Devi @ Sangeeta Kumari

... .. Respondent/s

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Appearance :

For the Appellant/s : None.

For the Respondent/s : Mr.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

2 04-09-2018 None for the appellant.

Perused the office notes.

This appeal has been preferred against the order dated 24.01.2017 passed by the Principal Judge, Family Court, Bhojpur at Ara in Maintenance Restitution Case No. 93/2015 filed for restitution of conjugal right, however, the impugned order has been passed under Section 24 of the Hindu Marriage Act, 1955 by which interim maintenance has been granted to the wife.

The office has raised an objection that against the order impugned being interlocutory one, the appeal is not available under Section 19 (1) of the Family Courts Act.

This issue is no longer *res integra* inasmuch as the



same has already been considered and decided by a Full Bench of this Court in **2010 (3) PLJR (HC) 632 (Neelam Kumari Sinha Vs. Shree Prashant Kumar)**, holding that in such matters the appeal would not be available under Section 19 (1) of the Act rather the remedy for the aggrieved party would be to file civil miscellaneous under Article 227 of the Constitution of India.

Accordingly, this appeal is held to be not maintainable.

However, the appellant, if he so desires, would be at liberty to assail the order either by filing a fresh petition under Article 227 of the Constitution of India or by converting this appeal into civil miscellaneous under Article 227 of the Constitution of India within a period of four weeks.

(Dr. Ravi Ranjan, J)

(Madhuresh Prasad, J)

V.K.Pandey/-

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