

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13086 of 2014

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Neelabh Singh son of Ripudaman Singh resident of Pataliputra Colony,
Police Station Patliputra, District Patna.

.... Petitioner

Versus

Smt. Pushpa Singh daughter of late Tribhuwan Singh, wife of Neelabh
Singh C/O Radha Raman Singh, resident of Mohalla Keshri Nagar, Nalapar,
Near Pan Bhawan, Police Station Patliputra, District Patna.

.... Respondent

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Appearance :

For the Petitioner : Mr. Ambuj Nayan Chaubey, Advocate

For the Respondent : Mr. Pandit Ji Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

7 12-03-2018 Petitioner before this Court is the husband of the
respondent. He has filed this application for setting aside the order
dated 04.06.2014 passed by Principal Judge, Family Court, Patna
in Matrimonial Case No.658 of 2009 whereunder this petitioner
has been directed to pay an amount of Rs.4,000/- per month the
Opposite Party (respondent) by 15th day of every succeeding
month from the date of the order and a lump-sum amount of
Rs.4,000/- towards cost of litigation. The court below has further
directed that an amount of Rs.2,000/- which is being paid by the
petitioner as per order passed by this Court in Cr.Misc.No.26644
of 2012 to be adjusted in the present interim maintenance amount.

2. Heard learned counsel for the petitioner and the
respondent.

3. The petitioner is the husband of the Opposite Party.



He has filed the aforesaid divorce case against his wife. The wife appeared and filed a petition under Section 24 of the Hindu Marriage Act alleging inter-alia that her husband has left maintaining her and at present she has residing with her widow mother at her place. Her husband is a registered government contractor having income to the tune of Rs.50,000/- per month. Besides that he has land measuring 15 bigahas and from the said land, he is also income. The court below after hearing both the sides allowed maintenance as mentioned above.

4. The learned counsel for the petitioner submits that the court below has erred in allowing the maintenance on the basis of pleadings of both the parties as asserted in the petition and its rejoinder. There was/is no material to show the income of the petitioner to the tune of Rs.50,000/- and so the impugned order is not sustainable. The learned counsel has further submitted that the father of the respondent died leaving landed property in which the share of his wife is to the extent of 1/6th share. His wife has earning to the tune of Rs.60,000/- per annum from the cultivation of land left by her father and the said income is sufficient to maintain her.

5. The learned counsel for the respondent on the other hand submitted that this petitioner has not specifically denied his income as asserted by the respondent and so the court below has



not committed any jurisdictional error in passing the impugned order.

6. On going through the submission of both the parties and documents on record, I find that the petitioner has simply denied that he is no income. He is in search of job and presently he is maintained by his father. It is not in dispute that the wife is residing separately from the husband. This petitioner has filed this divorce case and he allegedly is not willing to keep his wife at his place. The petitioner has not specifically denied about his income as asserted by his wife. He has stated that he is the member of the Joint Hindu Family and is totally dependent upon his father. The court below considering the case of both parties has granted interim maintenance to the tune of Rs.4,000/- per month to the wife which in present economic scenario does not appear to be exaggerated.

7. In the above facts, I do not find any jurisdictional error in allowing the maintenance to the tune of Rs.4.000/- per month in favour of the respondent Opposite Party. This application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

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