

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1118 of 2018**

Madhumita D/o Late Kashi Nath Prasad W/o Vinod Kumar At present
resident of M.I.G. Colony, P.S. - Kankarbagh, District - Patna - 20.

... .. Petitioner

Versus

Vinod Kumar S/o Sri Rameshwar Prasad resident of L.I.G. 99 Nehru Nagar,
Bhopal, Madhya Pradesh.

... .. Respondent

Appearance :

For the Appellant/s : Mr. Ranjan Kumar Sinha
For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT**

Date : 13-09-2018

Heard the learned counsel for the petitioner and the
learned counsel appearing on behalf of the respondent.

2. The petitioner-wife filed this civil miscellaneous
petition against the order dated 27.03.2018, passed by learned
Additional Principal Judge, Family Court, Patna in Matrimonial Case
No.390 of 2013 by which the petition of the petitioner for payment of
cost incurred on the study/admission fee of her daughter has been
disposed of holding that the same shall be considered at the time of
disposal of the matrimonial suit.

3. The learned counsel for the petitioner submits that the
petitioner filed petition for payment of the expenditure incurred on
the study/admission fee of her daughter on 19.03.2015. The
petitioner was heard on 29.09.2015 and the petition was posted for
hearing of the other side-the respondent but no order was passed on



the petition filed by the petitioner. The petitioner filed a petition on 12.01.2018 that till date her petition filed on 19.03.2015 for payment of the expenditure incurred on the admission and study of her daughter has not been disposed of but the learned Additional Principal Judge, Family Court, Patna disposed of the petition without passing any order on payment of expenditure stating that the same shall be considered at the time of final disposal of the case. It is submitted that the learned Additional Principal Judge has wrongly held and committed error of records that the petitioner did not press the application filed by her on 19.03.2015. The learned counsel for the petitioner referring Annexure-8 containing order dated 29.09.2015 submits that the argument of the petitioner was concluded and the petition was posted for hearing of the other side but the court never took any pain for disposal of the petition filed on 19.03.2015 and without passing any order disposed of the petition that the same shall be considered at the time of final decisions of the case. On the other hand, the learned counsel for the respondent-husband submits that the matrimonial suit was filed in the court of learned Principal Judge, Family Court, Bhopal but on the order of the Hon'ble Supreme Court, the matrimonial suit was transferred from the Principal Judge, Family Court, Bhopal to Principal Judge, Family Court, Patna with a direction to dispose of the matrimonial suit expeditiously but till date the suit has not been disposed of. The



learned counsel for the respondent has not referred any order showing that the matrimonial suit is pending on account of laches of the petitioner-wife. From the order impugned, it appears that the petition was filed on 19.03.2015 for payment of expenditure incurred by the petitioner on the admission/study of her daughter but without any fault on the part of the petitioner, the same was kept pending for about three years, therefore, I find that the learned Additional Principal Judge, Family Court, Patna has committed error in not disposing of the petition and keeping the same pending.

4. Accordingly, the order dated 27.03.2018, passed by learned Additional Principal Judge, Family Court, Patna in Matrimonial Case No.390 of 2013 is set aside. The matter is remitted to the court of learned Additional Principal Judge, Family Court, Patna to dispose of the petition after hearing both sides within two weeks from the date of receipt of this order.

5. The civil miscellaneous petition is allowed.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.09.2018
Transmission Date	NA

