

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.331 of 2019

Rawat @ Piyush son of Braj Nandan Singh, Resident of Village-Mohanpur
Police Station -Dharhara, District -Munger

... .. petitioner

Versus

Rupam Kumari daughter of Gurudayal Trivikram Resident of Mohalla- Kaura
Maidan, Police Station- Kasim Bazar, District Munger

... .. Respondent

Appearance :

For the Appellant/s : Mr.Vikram Singh, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 20-06-2019

The instant application has been filed by the petitioner under Article 227 of the Constitution of India for setting aside the order dated 17.12.2018 passed in Matrimonial Case No.306 of 2014 by the Principal Judge, Family Court, Munger whereby he has recalled the order dated 01.12.2017 by which the evidence of the petitioner was closed subject to payment of rupees five thousand to the respondent.

2. The contention of the petitioner is that the order impugned is arbitrary, unreasonable and illegal as there was no delay or fault on the part of the petitioner.

3. On perusal of the record it would be evident that the opposite party has filed a maintenance case against the petitioner before the Family Court. In the said maintenance case the petitioner appeared and filed his written statement



whereafter issues were settled on 30.03.2017. Thereafter, the case was fixed for evidence on behalf of the petitioner. However, the petitioner neither examined himself nor produced any other witness in support of the case and the evidence of the petitioner was closed on 01.12.2017. Subsequently, the petitioner filed an application on 09.07.2018 wherein prayer was made to recall the order dated 01.12.2017 whereby the evidence of the petitioner was closed. Considering the inordinate delay in filing the application for recall of the order whereby evidence of petitioner was closed, the court below allowed the application subject to deposit of rupees five thousand to the respondent.

4. The cost awarded by the court in the discretionary power is neither arbitrary nor by caprice. It was awarded in order to check the delaying tactics of the petitioner.

5. In that view of the matter, I see no reason to interfere with the order impugned.

6. The application is dismissed.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.06.2019
Transmission Date	

