

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.567 of 2019**

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Bhola Bhaskar Das, S/O Sadanand Das, Resident of Village-Vijay Nagar,
Near Petrol Pump, P.S.- Banka, Distt- Banka

... .. Petitioner

Versus

Seema Bharti, D/o Fudin Das, W/o Bhola Bhaskar Das, resident of village -
Gandhi Tola, Indrukh, P.S.- Naya Ramnagar, Distt- Ramnagar, Distt- Munger.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Kumar Kamal Nayan, Advocate
For the Respondent : Mr.

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT**

Date : 27-09-2019

Heard learned counsel for the petitioner.

2. This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 05.12.2018 and 07.12.2018 passed by the learned Principal Judge, Family Court, Munger in Matrimonial Case No.424 of 2014 by which he has closed the argument on behalf of the petitioner due to non-payment of cost awarded against him.

3. Learned counsel for the petitioner contended that the court below has erred in law as also on fact in closing the argument on behalf of the petitioner only because he failed to deposit the cost awarded against him. He contended that within a short span of five days, the case was fixed on three occasions. Since the grand-father of the petitioner had died, the petitioner



could not appear before the court on those three dates as a result of which the impugned order was passed, which, if allowed to continue, would cause irreparable injury to the petitioner.

4. Having heard learned counsel for the petitioner and perused the materials on record, I find that the application has been filed before this Court in a casual manner. Though, a plea has been taken by the petitioner that the grand-father of the petitioner had died as a result of which the petitioner could not turn up before the court on 03.12.2018, 05.12.2018 and 07.12.2018 when the matter was fixed for arguments, he has neither annexed the death certificate nor has mentioned the date on which his grand-father died.

5. On perusal of the order impugned, I find that on 03.12.2018 though, a petition for time was filed on behalf of the petitioner, no one appeared to press the time petition on repeated calls. Hence, a cost of Rs. 500/- was imposed against the petitioner with direction to remain present on the next date fixed on 05.12.2018 for argument. On 05.12.2018, again, the petitioner did not appear. He had also not paid the cost imposed by the court earlier. Considering the conduct of the petitioner, the learned Principal Judge imposed a cost of Rs. 1,000/- against him and fixed the case for argument on 07.12.2018. On 07.12.2018 also,



though, an application was filed on behalf of the petitioner on the ground of death of his grand-father, considering that the cost imposed earlier against him was not deposited and the lawyer present before the court also did not press the application, the court was left with no option but to close the argument on behalf of the petitioner.

6. The manner in which the petitioner conducted his case before the trial court is self-speaking. The order passed by the learned Principal Judge, Family Court can not be held to be perverse or without jurisdiction.

7. In that view of the matter, in exercise of supervisory jurisdiction under Article 227 of the Constitution of India, I am not inclined to interfere with the order impugned.

8. The application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.10.2019
Transmission Date	NA

