

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.132 of 2016

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Suresh Yadav Son of late Saryug Yadav Resident of Mohalla- Punaichak P.O.-
G.P.O. P.S. Shastrinagar Distt. Patna.

... .. Appellant/s

Versus

1. Prince Son of late Sanjeev Kumar @ Sanju under the guardianship of his Natural Mother Sita Devi, resident of Mohalla- Chandmari Road, P.S Kankarbagh Distt. Patna.
2. Sita Devi W/o late Sanjeev Kumar @ Sanju resident of Mohalla- Chandmari Road, P.S Kankarbagh Distt. Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Gauri Shankar Prasad, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

18 14-03-2019 The impugned order is a final order passed in a proceeding, under Section 125 Cr.P.C., by the Additional Principal Judge, Family Court, Patna, in maintenance Case No.222(M) of 2009. Hence, office has raised objection that this miscellaneous appeal filed under Section 19(1) of the Family Courts Act, 1984, is not maintainable in view of specific bar under sub-section (2) thereof which reads as follows:

“No appeal shall lie from a decree or order passed by the Family Court with the consent of the parties or from an order passed in Chapter-IX of the Code of Criminal Procedure.”

Hence, a criminal revision would lie under Section 19(4) of the Family Courts Act in view of the judgment of the



Division Bench in Criminal Revision No.321 of 2008. Order dated 21.01.2019 stands modified accordingly.

In the aforesaid circumstance, learned counsel for the appellant seeks permission to withdraw this miscellaneous appeal and file a criminal revision application against the impugned order.

Accordingly, prayer for withdrawal is allowed with liberty that the period of limitation shall be counted from the date of this order. The impugned order be returned back to the learned counsel after retaining a photo copy of the same on the record.

(Birendra Kumar, J)

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