

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.91 of 2019

Ranjeet Kumar Soni, son of Late Dhaneshwar Prasad, resident of village-Shitalpur, P.S.- Taraiya, District-Saran

... .. Appellant/s

Versus

Puja Devi wife of Ranjeet Kumar Soni, daughter of Ashok Prasad Sah, resident of village- Shitalpur, P.S.-Taraiya, District- Saran. At present resident of village- Maharajganj, P.S.- Chapra Muffasil, District- Saran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shyamal Prakash, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 16-01-2019

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 08.02.2018 passed by the learned Principal Judge, Family Court, Saran at Chapra in Divorce Case No. 07 of 2017 whereby the petitioner has been directed to pay Rs. 8000/- per month as maintenance pendente lite to his wife and minor son during pendency of the proceeding.

3. The petitioner has filed an application under Section 13 of the Hindu Marriage Act in the Court of Principal Judge, Family Court, Saran at Chapra vide Divorce Case No. 07 of 2017 seeking a decree of divorce from his wife on the ground of cruelty. It is an admitted fact that the couple has got a son



from the wedlock in question.

4. After notice, the respondent filed an application before the court below under Section 24 of the Hindu Marriage Act seeking ad interim maintenance of rupees thirty thousand per month towards maintenance for herself and her minor son. The respondent claims that the petitioner being a goldsmith earns rupees sixty thousand per month and has got agricultural income of rupees twenty thousand per month from his five Bigha land. She has urged that she has no means to maintain herself and her son. In reply, the petitioner took a plea that he is a landless person having no piece of agricultural land and he earns only rupees three thousand per month by selling jewellery boxes for which he wanders here and there.

5. Having considered the rival claims, the learned Principal Judge, Family Court, Saran at Chapra vide impugned order dated 08.02.2016 directed the petitioner to pay rupees eight thousand per month as maintenance pendente lite to the respondent for maintaining herself and her son.

6. Learned counsel for the petitioner submitted that the impugned order passed by the court below is perverse as there was no material before the court on the basis of which it could have awarded rupees eight thousand per month as



maintenance pendente lite. He contended that the trial court has failed to assess per month income of the petitioner before passing the impugned order.

7. Considering the submissions made above and the materials on record, I find that the respondent has claimed that her marriage with the petitioner had been performed on 04.12.2015. She has alleged that immediately after marriage, the petitioner and his family members demanded rupees two lacs as dowry and for non-fulfillment of the same she was subjected to cruelty in various ways. Somehow, the respondent managed to live in her matrimonial home and out of the wedlock a son was also born. Subsequently, she was ousted from her matrimonial home after snatching her ornaments and clothes. The respondent has also claimed that earning of the petitioner is rupees sixty thousand per month from the business of gold and rupees twenty thousand per month from agricultural land.

8. I further find that it is not the plea of the petitioner that the respondent has got any source of income. It is also not disputed that the petitioner is doing business. Though, the respondent claims that he deals in gold, the petitioner has taken a plea that he sells jewellery boxes and earns only rupees



three thousand per month.

9. The object of maintenance pendente lite is to provide financial assistance to the needy spouse to maintain herself. Once the court finds a prima facie case that the indigent spouse is unable to maintain herself, it is required to exercise its discretionary power to award proper ad interim maintenance.

10. In the instance case, award of rupees eight thousand per month to the wife and minor son of the petitioner as maintenance allowance considering that the petitioner admittedly is doing business cannot be held to be either excessive or unreasonable.

11. In that view of the matter, I see no merit in this application. It is dismissed accordingly.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.01.2019
Transmission Date	

