

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Revision No.11 of 2016**

Arising Out of PS. Case No.- Year- Thana- District- Samastipur

Arvind Sah @ Arvind Sahu S/o Late Siyaram Sah resident of village -  
Kankarghat, P.S. - Hathuri Shivaji Nagar O.P., District - Samastipur.

... .. Petitioner/s

Versus

1. Sanju Devi and Ors. W/o Arvind Sah @ D/o Dashrath Sah
2. Preeti Kumari
3. Princi Kumari
4. Smita Kumari Sl. Nos. 2 to 4 are minor daughters of Arvind Sah
5. Birju Kumar S/o Arvind Sah Sl. Nos. 2 to 5 are under the guardianship of Sanju Devi, resident of village - Kankarghat, P.S. - Hathuri Shivaji Nagar O.P., District - Samastipur, presently residing at village - Ganauli, P.S. - Hathuri Shivaji Nagar O.P. District - Samastipur.

... .. Respondent/s

**Appearance :**

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|----------------------|---|-------------------------------|
| For the Petitioner/s | : | Mr. Suneil Kumar Thakur       |
| For the Respondent/s | : | Mr. Mr. Prashant Sinha, Adv   |
|                      |   | Mr. Krishna Kumar Singh, Adv. |
|                      |   | Mr. Satya Prakash, Adv.       |

**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA**  
**ORAL ORDER**

4      29-01-2019                      This revision application is directed against order dated 5.11.2015 passed in Maintenance Case No.9/2012 Reg. No.171 of 2014 by which the learned Family Court, Samastipur has directed the petitioner to pay Rs.1,000/- as maintenance to the O.P. no.1 and Rs.1,000/- each to O.P. nos. 2 to 5 from the date of application.

2. The case in short is that the O.P.no.1 was married with the petitioner and she gave birth to three children but after beating and snatching all articles she was ousted from the house and thereafter she filed Complaint No.481 of 2008 before the



ACJM, Rosera and started living with her three minor daughters at her *Naihar*. It is also stated that earlier she had filed maintenance case being no. No.38 of 2009. After issuing notice in this case, he appeared and filed affidavit to keep her and in this regard, both parties filed affidavit and on pursuant to affidavit, Maintenance Petition No.38/09 was disposed of.

3. Further case is that for some day she came at her matrimonial house and again in the year, 2010 she was ousted and she along with her three daughters and one son started residing at her *naihar* and she has no source of income whereas the petitioner is earning Rs.50,000/- per month from 7 bigha of land and he has also sweet and Chura shop as such he is capable to maintain her and children. On the other hand, the case of O.P.no.1 is that Maintenance Case No.38 of 2009 which was disposed of on 8.7.2009 on the compromise that the petitioner has executed two sale deeds of 13 katha and 8 dhur of land in favour of the minor son Birju Sah of the petitioner and it was decided that O.P.no.1 will not file any case in future but she has again filed the present case. It is also submitted that the petitioner is a labour and he has no land. It further appears from perusal of the record that two witnesses have been examined on behalf of O.P.no.1 and three witnesses have been examined on



behalf of the petitioner.

4. Learned counsel for the petitioner after conclusion of the trial and perusal of the record has come to a finding that the O.P.no.1 is the wife of the petitioner and she is living at her Naihar along with her children and she has no source of income and her parents are poor and the petitioner is not maintaining them.

5. Considering the above facts, the learned Family Court allowed the maintenance case and directed the petitioner to pay Rs.1,000/- per month to the O.P.no.1 and Rs.1,000/- each for her minor children i.e. O.P.Nos.2 to 5 from the date of application.

6. Being aggrieved by the same, the present revision application has been filed. The main contention of the learned counsel for the petitioner is that earlier the maintenance case was compromised on the ground that he has already executed two sale deeds of 8 katha and 13 dhur of land in favour of O.P.no.5 and the O.P.no.1 is guardian of O.P.No.5, as such order granting maintenance is against the earlier compromise held between the parties. Further submission is that the O.P.no.1 has married with another person but he has admitted that he has not produced any document in support of the above contention



before the Family Court.

7. On the basis of the above contention, the learned counsel for the petitioner has submitted that as such the maintenance to O.P.nos. 1 to 5 are not sustainable in the eye of law.

8. Heard learned counsel for the O.P.nos. 1 to 5 who has opposed the revision application on the ground that earlier the maintenance case was disposed of on the basis of undertaking filed by the petitioner that he will keep O.P.nos.1 to 5 with dignity and for some time he kept them in his house thereafter she was again ousted as such there is need for maintenance to O.P.nos. 1 to 5 and there is no illegality in the impugned order and he has also denied the claim of the petitioner that O.P.no.1 has solemnized her marriage.

9. On perusal of the record it appears that there is admitted position that O.P.no.1 is wife and O.P.no.2 to 5 are children of O.P.no.1 and the petitioner himself has admitted that O.P.no.1 is living at her *Naihar* . Further there is absolutely nothing available on the record to show that she has any source of income. So far contention of the learned counsel for the petitioner is that earlier he has already executed two sale deeds of 8 katha and 13 dhur of land in favour of the O.P.no.5 in view



of the compromise made between the parties for maintenance does not appear to be believable as sale deed was executed in favour of O.P.no.5 being heir also of the petitioner and no arrangement has been made for maintenance of O.P.nos. 1 to 5. It further appears that the petitioner in his evidence has admitted that he has 2 bighas of land and the case of the O.P.no.1 is that petitioner has earning of Rs.50,000/- per month from agriculture income and apart from that there is other income also, no doubt no chit of paper is being produced by opposite parties in support of income of petitioner but he has himself admitted that he has two bighas of land as such he has sufficient means to maintain O.P.nos. 1 to 5.

10. It further appears that the Family Court has granted Rs.1,000/- to the O.P.no.1 and Rs.1,000/- each to the O.P.no.2 to 5 and in my opinion, that is not excessive.

11. Thus, I find this revision application is of devoid of merit, accordingly, dismissed.

**(Vinod Kumar Sinha, J)**

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