

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.621 of 2015

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

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Shyam Nandan Pd. Singh, son of Late Baidya Nath Prasad Singh, father of
Ishwareswar Prasad Singh, resident of New A.G. Colony, P.S. Doranda,
District - Ranchi.

... .. Petitioner/s

Versus

Smt. Veena Devi D/o Late Bhuvneshwar Singh, resident of village-
Pokhariya, P.S.- Hajipur Sadar, District- Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ansul, Advocate

For the Respondent/s : Mr. Subodh Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

5 20-02-2019

Heard learned counsel for the parties.

2. This criminal revision has been preferred, under
Section 19(4) of the Family Court Act, against the order dated
08.05.2015 passed by the learned Principal Judge, Family Court,
Vaishali at Hajipur in Miscellaneous Case No.43 of 2012.

3. The sole opposite party, namely, *Smt. Veena Devi*
brought a case for maintenance under Section 125 of the Code
of Criminal Procedure before the learned Principal Judge,
Family Court, Vaishali at Hajipur, against her husband,
Ishwareswar Prasad Singh.

4. By order dated 21.04.2009, passed in
Maintenance Case No.65 of 1998, the husband was directed to
pay Rs.1500/- to the petitioner and Rs.1000/- to her minor



daughter per month.

5. The petitioner, herein, who is father of *Ishwareswar Prasad Singh* approached this Court in Criminal Revision No.915 of 2009. The said revision application was withdrawn with liberty to move the court below for redressal of grievance.

6. Opposite Party, *Veena Devi* filed Miscellaneous Case No.43 of 2012 before the same court, complaining about non-payment of the maintenance amount, which fell in arrears up to Rs.5,40,000/-. The petitioner, herein, appeared and contended that husband of the opposite party is suffering from mental disorder. Hence, the maintenance order has been passed against the person of unsound mind.

7. By order dated 08.05.2015, notice was ordered to be issued to the husband of opposite party and by a subsequent order of the same day, the court below observed that the learned Principal Judge, Family Court, while ordering for payment of compensation had occasion to see the husband physically and the court did not find any sign of insanity.

8. The court below further recorded in the impugned order that husband of opposite party is in Central Government service and it is unbelievable that he is absenting



himself since last 11 years and he has not been removed from the service.

9. Preliminary objection has been raised on behalf of opposite party that the original petitioner, *Shyam Nandan Prasad Singh* had no locus in his personal capacity to challenge the impugned order on behalf of *Ishwareswar Prasad Singh* in absence of any evidence of medical expert to establish that husband of opposite party is a man of unsound mind. This is evasive tactics to keep the husband behind the curtain. Moreover, the petitioner has already died on 07.07.2015 and now *I.A. No.1959 of 2015* has been filed for substitution of *Gena Singh*, the mother of the husband of the opposite party herein to pursue the matter.

10. Learned counsel for the petitioner submits that it is consistent case of the petitioner that *Ishwareswar Prasad Singh* is suffering from *chronic schizophrenia*. Hence, the petitioner has locus to pursue the matter as next friend of unsound mind.

11. In absence of any material, to substantiate mere statement on oath cannot take place of proof that *Ishwareswar Prasad Singh* is suffering from unsoundness of mind. Therefore, neither the petitioner had any locus to bring this matter, nor



there is any reason to allow the mother of the husband of opposite party to pursue this matter. Hence, the I.A. application bearing *I.A. No.1959 of 2015* as well as this *criminal revision* stands ***dismissed***.

(Birendra Kumar, J)

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