

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No.8 Of 2022
(Through video conferencing mode)

Paresh Kumar Parichha ... ***Petitioner***

Mr.Das, Advocate

-versus-

Anita Kumari Parichha ... ***Opposite Party***

CORAM: JUSTICE ARINDAM SINHA

ORDER
24.01.2022

Order No.

- 01.** 1. Mr. Das, learned advocate appears on behalf of appellant-husband. He submits, the appeal is against order dated 10th December, 2021, passed in execution by Court of Civil Judge (Senior Division), Parlakhemundi, District-Gajapati. Incorrect appreciation of the decree is what his client is aggrieved by.
2. On query from Court, he submits, this appeal has been preferred under sub section (4) of section 19 in Family Court's Act, 1894. On further query from Court he submits, the order was made by the Civil Judge because the Family Court had not been constituted.
3. Sub-section (4) in section 19 is reproduced below:-

“ (4) The High Court may, of its own motion or otherwise, call for and examine the record of any proceeding in which the Family Court situate within its jurisdiction

passed an order under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) for the purpose of satisfying itself as to the correctness, legality or propriety of the order, not being an interlocutory order, and, as to the regularity of such proceeding"

Chapter IX in Code of Criminal Procedure provides for order for maintenance of wives, children and parents. Section 128 deals with enforcement of order of maintenance. This maintenance necessarily meant maintenance order under section 125. However, it appears from impugned order that the execution case is directed against order of interim maintenance made under section 24 of Hindu Marriage Act, 1955. As such, the appeal is not maintainable.

4. Send the file to Deputy Registrar (Judicial) to ascertain classification, whether as writ petition [W.P.(C)] or MATA and thereafter place before the Bench having assignment.

(Arindam Sinha)
Judge

Prasant