

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.473 of 2021**

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Sri Bharat Kumar Singh @ Bharat Kumar Singh, Gender-Male, aged about 66 years, Son of Late Anant Lal Singh, Resident of Village - Kaler, P.S. - Kaler, P.O. - Kaler, District - Arwal.

... .. Petitioner/s

Versus

Smt. Meena Devi @ Meena Devi, Gender-Female, aged about 65 years, Son of Sri Bharat Kumar Singh @ Bharat Kumar Singh, Resident of Village - Chairpur, P.S. - Karpi, P.O. - Town Telpa, District - Arwal.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pritish Kumar Lal, Advocate

For the Respondent/s : Mr. Ram Sumiran Rai, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER**

5 28-02-2023 Heard learned counsel for the petitioner.

This Civil Miscellaneous Petition has been filed against the order dated 14.01.2020 passed by the learned Principal Judge, Family Court, Jehanabad in Matrimonial Case No. 82 of 2015 whereby and whereunder he has directed the petitioner to pay Rs. 15,000/- per month as monthly maintenance during the proceeding and Rs. 20,000/- as expenses of the proceeding to the respondent-wife.

It appears from the petition that the marriage between the petitioner and respondent-wife was solemnized in the year 1983. From the wedlock, they have blessed with four children



i.e., one son and three daughters, who are already married. Due to matrimonial dispute, the petitioner filed divorce case against his wife. A petition dated 20.06.2019 has been filed on behalf of the respondent-wife under Section 24 of the Hindu Marriage Act stating that she is unable to maintain herself and also unable to meet out the expenses in the proceeding and the petitioner has monthly income of Rs.3,00,000/- against which the petitioner has filed objection stating that he left his contract work and has no source of income and his uncle and brothers are maintaining him. It is also stated in the objection that respondent wife has independent source of income and a petition was filed for enquiry for determination of income of the petitioner.

Learned counsel for the petitioner submits that without any enquiry for determination of income the learned Court below passed the impugned order ignoring the fact that the petitioner has no source of income. Further, it is submitted that the impugned order is illegal, perverse and against the material on record. Learned counsel for the petitioner further submits that the learned trial Court has proceeded on the basis of liability of the husband to maintain his wife but failed to appreciate that when the petitioner has no source of income then the petitioner cannot be able to provide maintenance amount to



his wife. He has next submitted that he is making payment of Rs. 3,000/- as interim maintenance to the respondent-wife and he is ready to make the said payment from the date of the application.

It appears that the petition for divorce is pending and for maintenance of respondent-wife during the proceeding, the interim maintenance of Rs. 15,000/- per month was directed to be paid by the petitioner to his wife without assigning any reason of providing such amount. The petitioner has categorically stated that he has no source of income. In view of the said submission and averments, it is required to be ascertained the status and income of the petitioner so that the appropriate amount of maintenance can be provided to the respondent-wife during the proceeding. The detailed guidelines and directions with respect to maintenance have been issued by the Hon'ble Supreme Court in the case of **Rajnish Vs. Neha and Anr.** reported as **(2021) 2 SCC 324**. Learned counsel for the petitioner prayed to set aside the impugned order and further submits that the petitioner shall continue to pay Rs. 3,000/- per month till fresh disposal of maintenance petition after considering the income of the petitioner.

From perusal of the impugned order, it is apparent



that no valid reason has been assigned for directing the petitioner to pay Rs. 15,000/- per month as monthly maintenance amount. Reasoned order is a part of natural justice and failure to give reasons may amount to denial of justice. Reasons are the soul of the decision.

Considering the facts and circumstances of the case and settled principles of law, it is clear that the impugned order dated 14.01.2020 has been passed without assigning any valid reason which is liable to be set aside. Accordingly, the impugned order is set-aside and the Court below is directed to pass a fresh order on the petition dated 20.06.2019 under Section 24 of the Hindu Marriage Act.

The petitioner is directed to pay arrears amount at the rate of Rs. 3,000/- per month to be calculated from 20.06.2019 and shall continue till disposal of the said application dated 20.06.2019. The petitioner is also directed to provide the litigation cost of Rs. 20,000/- as expenses of proceeding to the respondent-wife. The petitioner is directed to pay the arrears and litigation amount within four weeks from receipt/production of a copy of this order.

The learned trial Court is directed to decide afresh the said application dated 20.06.2019 under Section 24 of the Hindu



Marriage Act for maintenance *pendente lite* within six weeks
from receipt/production of a copy of this order.

The application stands disposed of with the aforesaid
observation and direction.

(Sunil Dutta Mishra, J)

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