

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3182 of 2023

In
Miscellaneous Appeal No.485 of 2015

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Sri Subodh Kumar Mishra @ Suvodh Kumar Mishra S/o Late Kedarnath Mishra, Resident of Village Bhalpatti, P.O.-Bhalpatti, P.S.-Sadar, District-Darbhanga.

... .. Petitioner

Versus

Smt. Bharti Mishra Daughter of Dr. Chandrashekhar Jha, wife of Subodh Kumar Mishra, resident of House No. 169, Godhra, Bada Govindpur, Near Railway Crossing, Jamshedpur, P.O.-Telco Works, P.S.-Rahargoan, Jamshedpur (Jharkhand).

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Vijay Anand, Advocate
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 05-07-2024

Heard learned counsel for the petitioner.

02. The present MJC has been filed for revival of the order dated 12.07.2017 passed in Miscellaneous Appeal No. 485 of 2015. It is necessary to reproduce copy of the order dated 12.07.2017, which reads as under:-

“I.A. No.9398/2015

*Heard learned counsel for the appellant
and the respondent.*

*This interlocutory application has been
filed for condoning the delay of about sixteen
days in preferring the present appeal.*

No counter affidavit has been filed on



behalf of respondent opposing the aforesaid prayer.

For the reasons mentioned in this interlocutory application, we are satisfied that the appellant was prevented from sufficient cause from preferring this appeal within time.

As a result, this interlocutory application is allowed and the delay in filing this appeal is hereby condoned.

M.A. No.485 of 2015

We have heard parties.

The appellant husband, wife, father-in-law and brother-in-law of the appellant are present in person before us.

It appears that finally good sense has prevailed upon the parties after much effort of conciliation made by this Court, they are happily living with each other at the place of the husband. The father of the respondent has produced the original certificate of the fixed deposits. After perusal, learned counsel for the appellant and respondent both are satisfied that all the required money are thereunder in two fixed deposits. That apart, the father of the respondent has also produced the pass-book of Saving Bank A/c No.50100076721257 which is in the name of the respondent as well as her father. It is contended that Rs. 1,33,397.09/- is in the account which was deposited as maintenance by the husband of the respondent.

The father of the respondent has assured us that so far as two fixed deposits are concerned, his name would be replaced by inducting the names of the two minor kids under the guardianship of their mother till



15.09.2017. So far as the money kept in the aforesaid saving bank account is concerned, that money would be also transferred into the accounts of the son and daughter of the appellant and the respondent in equal portion.

The husband undertakes before us that he will lead happy and harmonious conjugal life henceforth along with the respondent-wife extending full dignity and honour to her. The wife also undertakes that she will take care of her husband and the family as a dutiful wife. The wife also undertakes that she will file a compromise petition in Cr. Revision No.730 of 2010 pending in the Jharkhand High Court, Ranchi and, for such purpose, the required step would be taken by her till 15.09.2017.

Accordingly, in the aforementioned facts and circumstances and upon the joint request of the parties, the judgment and decree passed by the court below is upheld and this appeal stands disposed of with the aforesaid observations and directions.

However, if any terms and conditions are violated by the parties then the other side would have a liberty to file a petition for revival of this matter.

The children would continue their study at Jamshedpur under the guardianship of their maternal grandfather and after completion of their schooling, it will be open for them to take a decision regarding staying with their parents.

The father undertakes to bear 25% of the expenses which would incur in the study of his son and daughter till they are studying at Jamshedpur.”



03. Earlier the petitioner had filed MJC No. 823 of 2021 for revival of this order, the same was disposed of for want of material information, like non production of order dated 12.07.2017 passed in Miscellaneous Appeal No. 485 of 2015. Resultantly, the present MJC has been filed to revive the order dated 12.07.2017. In support of revival of the order, the petitioner has produced Annexure-P/3 to P/5. Perusal of these annexures do not reveal any specific allegations against his wife Smt. Bharti Mishra. The Miscellaneous Appeal No. 485 of 2015 was between the petitioner and Smt. Bharti Mishra whereas perusal of Annexures-P/3 to P/5 shows all allegations are against relatives or friends of Smt. Bharti Mishra to the extent that they are harassing the petitioner and threatening him. These events do not appear material information so as to revive the order dated 12.07.2017. Whatever order has been passed on 12.07.2017 in Misc. Appeal No. 485 of 2015 the same is binding on the petitioner and his wife Smt. Bharti Mishra. Certain terms and conditions have been stipulated in joining the family and running the family. If there are any further domestic issues among the petitioner and Smt. Bharti Mishra, one can understand so as to examine whether this Court can revive the order dated 12.07.2017 passed in Misc. Appeal No. 485 of 2015.



There is no iota of material to the extent that allegations have been levelled against Smt. Bharti Mishra. Even assuming that certain passing remarks have been made by the petitioner in Annexure-5 and it is not addressed to Smt. Bharti Mishra. In other words, if any passing remarks made against his wife in a communication addressed to the officials that does not give any right to the petitioner to revive the order dated 12.07.2017 passed in Misc. Appeal No. 485 of 2015.

04. Accordingly, the present MJC stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.07.2024
Transmission Date	NA

