

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1433 of 2017**

**In
CRIMINAL MISCELLANEOUS No.45894 of 2015**

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Sobrita Devi Wife of Sufal Rai, Daughter of Dukhan Rai, Resident of Village- Barapatti Pindour Tola Birpur Gajahara, Police Station- Ladania, District- Madhubani, at present residing at Village- Mangraouni, Police Station- Rajnagar, District- Madhubani.

... .. Petitioner/s

Versus

Sufal Rai Son of Shiv Shankar Rai, Resident of Village- Barapatti Pindour Tola Birpur Gajahara, Police Station- Ladania, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Jha, Adv.

For the Respondent/s : Mr.Ram Bilash Roy Raman, Adv.

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 28-01-2025

Heard learned counsel for both the parties.

2. Petitioner is aggrieved by the order dated 21.08.2013 passed by learned Principal Judge, Family Court, Madhubani whereby and whereunder the learned Family Court allowed the application by the petitioner and as an interim measure enhanced the maintenance amount from Rs.250/- to Rs.1000/- per month.

3. The learned counsel for the petitioner submits that the petitioner filed a Maintenance Case bearing no. 19 of 2000 against the respondent in which the petitioner was allowed maintenance amount of Rs.250/- per month in the year 2002. Thereafter, in 2009 the application was filed for enhancement of



the maintenance amount and as an interim measure, the interim maintenance was enhanced from Rs.250/- to Rs.1000/- and the matter has been kept pending. Learned counsel further submits that the learned Family Court has not considered the pitiable condition of the petitioner and how she would survive on such meager amount. The respondent has been earning Rs.15,000/- per month while working at Delhi and it was not proper for the learned Family Court to pass such orders at the rate of Rs.1000/- per month after enhancement from Rs.250/- per month. Learned counsel further submits that the impugned order needs interference by this Court and a reasonable amount of maintenance ought to be allowed to the petitioner. The learned Counsel also submits that the respondent is not making payment of the enhanced amount of Rs.1000/- per month.

4. Learned counsel appearing on behalf of the respondent submits that the claim of the petitioner about enhancement of the maintenance amount has not been finally disposed of. In terms of order of the learned Principal Judge, Family Court, Madhubani the respondent has been making payment of Rs. 1000/- per month and it would be fit and proper if the learned Principal Judge, Family Court is directed to dispose of the claim of the petitioner about the claim of



enhancement of the maintenance amount since it appears from the impugned order that the matter was fixed for further proceedings. Learned counsel further submits that moreover the impugned order was passed in the year 2013 and the petition moved before this Court only in the year 2015.

5. Having regard to the rival submissions of the parties and from perusal of the record, I find that this petition has been filed against an order which has been passed on prayers of the petitioner for enhancement of the maintenance amount being paid by the respondent. Further, from the impugned order, I do not find any consideration about the income of the parties or reasons for allowing Rs.1000/- per month only as enhanced amount. It also appears that the matter was kept pending for further proceeding by the learned Principal Judge, Family Court, Madhubai which shows the final orders for enhancement are yet to be passed. It has also come in submission of the learned counsel for the petitioner that respondent has not been making payment of the enhanced amount though submissions to contrary has been made by learned counsel on behalf of the respondent.

6. Since this Court is not supposed to appreciate the facts for the first time which were not considered by the learned



Family Court, I am not inclined to pass any orders on the merits in the present case and remand the matter to the learned Principal Judge Family Court for passing a reasoned order after consideration of all the aspects of the matter and dispose of the claim of the petitioner by a speaking order. The learned Principal Judge, Family Court, Madhubani is also directed to dispose of the claim for enhancement within three months from the date of receipt/production of copy of the order considering the antiquity of the matter.

7. Learned Family Court shall also verify about arrear amount, if any, in terms of its order dated 21.08.2013 and make the respondent pay the said amount.

8. With the aforesaid directions, the present petition is disposed of.

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.01.2025
Transmission Date	N/A

