2026:AHC:210607

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 529 BNSS No. - 4841 of 2026

Bandana Devi

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Prashant Pratap Rao
Counsel for Opposite Party(s)	:	G.A.

Court No. - 82

HON'BLE JAI PRAKASH TIWARI, J.

Heard Ms. Shweta Rao holding brief of Sri Prashant Pratap Rao, learned counsel for the applicant and learned A.G.A for the State as also perused the record.

This application under Section 529 BNSS has been filed seeking direction to the court concerned to conclude the proceedings of Case No. 1305 of 2025 (Bandana Devi vs. Mithilesh Kumar Prajapati), under Section 144 BNSS, Police Station Barhalganj, District Gorakhpur, pending before the court of learned Principal Judge, Family Court, Gorakhpur, within stipulated period.

Learned counsel for the applicant submitted that on 27.08.2025, an application under Section 144 BNSS has been filed on behalf of applicant, which is still pending and considerable time has already been lapsed.

Here, it would be relevant to mention the relevant Section 144 BNSS:-

Section 144. Order for maintenance of wives, children and parents-(1)

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental

abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means.

Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

Explanation. - For the purposes of this Chapter, "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Any such allowance for the maintenance or interim maintenance and expenses of proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining

unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

When a Court takes too long time to decide a maintenance case, it completely ruins the main purpose of the law. The object of law was specially created to give immediate financial help for survival to the wife, child, and parent, who has no other means of support. If a person has to wait for years just to get basic maintenance, they might suffer from destitution in the meantime. Accordingly, to ensure that the legislative intent is not defeated by protracted litigation, this Court deems it fit and proper to direct the trial court to expedite the proceedings and conclude the same expeditiously.

Considering the above facts and circumstances, without expressing any opinion on the merits of the case, this application is finally disposed of with a direction to the court concerned to decide the application for interim maintenance, if any, keeping in view the provisions provided under Section 144 BNSS regarding the interim maintenance and thereafter, decide the application for maintenance in accordance with law, as expeditiously as possible, preferably within a period of one year from the date of production of a certified copy of this order, without granting any unnecessary or long adjournments to the parties, if there is no other legal impediment.

(Jai Prakash Tiwari,J.)

October 7, 2026
Brijesh

Digitally signed by :-
BRIJESH KUMAR
High Court of Judicature at Allahabad