2026:AHC:212258

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 42237 of 2026

Amar Kant Pathak

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Anant Prakash Mishra, Suneel Kumar
Counsel for Opposite Party(s)	:	G.A.

Court No. - 72

HON'BLE DEEPAK VERMA, J.

1. Heard learned counsel for the applicant and learned AGA for the State.

2. The present 528 B.N.S.S. application has been filed to quash the impugned order dated 24.07.2026 passed by the Additional Principal Judge, Family Court No.1, Varanasi in Case No.963 of 2025 (Nidhi Pathak vs. Amar Kant Pathak), under section 144 B.N.S.S., Police Station Cantt., District Varanasi.

3. Learned counsel submits that the applicant submits that husband of the opposite party no.2 filed application under section 144 B.N.S.S. Notice could not be served upon the applicant, therefore, he could not appear before the proceeding and court proceeded ex-parte. Thereafter he got knowledge in regard to proceeding under section 144 B.N.S.S. and ex-parte order moved by the opposite party no.2 before the family court. Immediately moved application to recall the order dated 23.02.2026 ex-parte order. Thereafter various dates were fixed and on each and every date, the applicant was present but Court did not pass any order on recall application of the applicant. Due to unavoidable reason, applicant as well as counsel did not appear on date fixed i.e. on 24.07.2026 and learned Additional Principal Judge, Family Court rejected the recall application of the applicant filed on 08.04.2026. Learned counsel for the applicant submits that order passed by learned magistrate dated 24.07.2026 is arbitrary, illegal and without affording opportunity of hearing to the applicants and is liable to be set aside.

4. Learned AGA opposed the submission raised by learned counsel for the applicant.

5. Considered the argument of learned counsel for the applicant. In the interest of justice, opportunity must be provided to the applicant to press his recall application dated 08.04.2026 and order should be passed after hearing both the parties. The order dated 24.07.2026 is set aside with direction that the applicant shall appear on 23.10.2026 in court proceeding. On that date, recall application of the applicant shall be decided after hearing both the parties. Till then, no coercive steps shall be taken against the applicant.

6. It is made clear that no adjournment shall be granted to either of the parties.

7. With these observations, the application u/s 528 B.N.S.S. stands disposed of.

October 9, 2026
SKD

(Deepak Verma,J.)

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