

(2023) 03 PAT CK 0058

In the Patna High Court

Case No : Civil Miscellaneous Jurisdiction No. 1566 Of 2019

Seema Singh

APPELLANT

Vs

Sunil Chandra Singh

RESPONDENT

Date of Decision : 28-03-2023

Acts Referred:

Hindu Marriage Act, 1955 — Section 24
Code Of Criminal Procedure, 1973 — Section 125

Citation : (2023) 03 PAT CK 0058

Hon'ble Judges : Sunil Dutta Mishra, J

Bench : Single Bench

Advocate : Seema Singh, Shrawan Kumar, Krishna Kumar Singh

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the parties.
2. As pointed out, it appears that in some of previous orders in appearance for petitioners in place of Ms. Seema Singh it is typed as Mr. Seema Singh which is apparently a typing mistake which requires correction, which is formal in nature, accordingly in place of Mr. Seema Singh it be corrected and read as Ms. Seema Singh.
3. This Miscellaneous Application has been filed by the petitioners for direction to the Court below inter-alia for early disposal of the Maintenance Case No. 100/2013 and Matrimonial Case No.398/2010 pending in the Court of learned Additional Principal Judge, Family Court, Patna.
4. From perusal of the record, it appears that the petitioner no. 1 is wife of respondent no. 1 and petitioner no. 2 is their minor daughter. The marriage of petitioner no. 1 with respondent no. 2 was solemnized on 13. 02. 2006 as per Hindu rites and ceremonies and from their wedlock a daughter i.e., petitioner no. 2 was born on 11.08.2007. Respondent no. 1 who is husband of petitioner no. 1 filed a divorce case bearing Matrimonial Case No. 398/2010 against his wife/

petitioner no. 1 on the ground of cruelty and desertion in which petitioner no. 1 filed an application under Section 24 of Hindu Marriage Act, 1955 for maintenance pendente lite and expenses of proceeding which was allowed vide order dated 21.02.2011 directing the husband to pay total amount of Rs. 10,000/- per month (Rs. 8,000/- for the maintenance of the petitioner-wife and Rs. 2,000/- for the maintenance of the minor daughter) and Rs. 6,000/- in lump sum by way of litigation cost. On petition of petitioner-wife for enhancement of said maintenance amount the same was enhanced to Rs. 12,000/- per month as interim maintenance and Rs. 20,000/- lump sum as admission fee for the daughter vide order dated 26.04.2013. Later on the said maintenance amount had been further enhanced by Rs. 3,000/- (i.e., total Rs. 15,000/- p.m.) by order dated 03.01.2015.

5. It also appears that the petitioner-wife has also filed a Maintenance Case No. 100/2013 under Section 125 Cr.P.C. The respondent husband has filed CWJC No. 2843/2014 against the order of aforesaid enhancement of maintenance amount. However, this Court had rejected the said application and directed the Court below vide order dated 15.01.2016 to dispose of the Matrimonial Case No. 398 of 2010 by December, 2016 and further directed to maintain the time frame and also consider the desirability for taking up other litigation between the parties pending before it along with Matrimonial Case No. 398 of 2010, if so prayed, in accordance with law. It was further directed that husband of the petitioner-wife shall pay an amount of interim maintenance in accordance with the order dated 03.01.2015 at the rate of Rs. 15,000/- per month to the petitioner-wife and the minor daughter.

6. The petitioner No. 1 has submitted that many cases has been pending between the parties and her Maintenance application bearing no. 100/2013 and Matrimonial Case No. 398 of 2010 is still pending in the Court of learned Additional Principal Judge, Family Court, Patna causing great hardship to her. She has also stated that even the respondent-husband is not paying the interim maintenance amount regularly due to which, she is unable to maintain herself and her minor daughter. She prayed that the learned Court below be directed to expedite the aforesaid Matrimonial Case No. 398 / 2010 and Maintenance Case No. 100 / 2013 to dispose of expeditiously and also to give direction to ensure that the respondent – husband shall pay the arrears amount and also make timely payment of her maintenance amount.

7. On the other hand learned Senior counsel for the respondent-husband has submitted that the respondent-husband is making the payment to the petitioner as directed by the Court below and there is no dues payable by the respondent-husband as claimed and in support of the same statement of payment made time to time has been filed. He has further submitted that the respondent-husband is ready to pay arrears amount, if any and is ready to co-operate in disposal of both the cases and the petitioner may be directed to co-operate in expeditious disposal of the aforesaid cases.

8. Having heard learned counsel for the parties and on perusal of the material on record, it appears that Matrimonial Litigation and the Maintenance Petition between the parties are pending since long.

9. As stated above, this Court has earlier directed to dispose of those cases within time frame but the same has not complied with forcing the petitioners to file this Civil Miscellaneous application for early disposal of the cases pending before the learned Principal Judge, Family Court, Patna. In view of the aforesaid facts and circumstances and in view of the earlier direction in the said order dated 05.05.2016 in Civil Writ Jurisdiction Case No. 2843 of 2014 it is directed to the learned Court below to take all the necessary steps for early disposal of both the cases i.e., Matrimonial Case No. 398/2010 and Maintenance Case No. 100/2013 if not disposed of and are still pending and in this regard both the parties are also directed to co-operate with the learned trial Court. The learned trial Court is also directed to ensure the regular payment of maintenance amount as ordered and also to ensure payment of arrears amount, if any.

10. This Civil Miscellaneous application is accordingly, disposed of with aforesaid observation and direction.