

BEFORE
HON'BLE MR. JUSTICE, S.R. SEN
CRL.REV.P. No. 15 of 2014

28.10.2014

Heard Mr. S.M. Suna, learned counsel appearing for and on behalf of the petitioner, who submits that the learned court of District Council, Jowai vide order dated 23.07.2014 in M.C.R. Case No. 1 of 2002 enhanced the maintenance from Rs. 2000/- to Rs. 8000/- which is exorbitantly high and the petitioner is not in a position to pay such enhanced amount. Hence this petition.

The learned counsel also further submits that the petitioner is a sick man and suffering from different ailments and he is having 2(two) children to maintain and prays that the impugned order dated 23.07.2014 may be set aside.

On the other hand, Mrs. P. Yadav, learned counsel appearing for the respondent argued that the petitioner is drawing a salary of Rs. 28, 000/- at present so far her information goes and further argued that out of Rs. 28, 000/- if the petitioner pays Rs. 8000/- he will be nowhere in loss because the respondent has to survive and maintain her 2(two) school going children, and further submits that there is no illegality in the order dated 23.07.2014. So, the petition may be dismissed.

I have gone through the order dated 23.07.2014 and on perusal of the impugned order, I find that the learned court below has passed the order without taking sufficient evidence. In my view, while granting any interim order or any permanent maintenance or enhancement, ascertainment of income of the petitioner is necessary who to pay the maintenance and at the same time the court must also consider that he also needs the money for his own utilization and to support other dependents. That part has not been taken care of.

Therefore, after hearing the rival submissions advanced by the learned counsel for the parties and going through the contents of the order, I am of the opinion that this case needs to remand back to the concerned court for a fresh look and to decide the matter after taking all the factors observed above. Hence, the matter is remand back to the concerned court with a direction to dispose of the matter within a month from the date of receipt of this order and both the parties are to co-operate with the court concerned and not to ask for time since here the

question of maintenance is involved of the respondent and her two school going children. I also do hereby set aside the impugned order dated 23.07.2014. However, till disposal of the petition by the learned court below, let the petitioner pay Rs. 5000/- per month to the respondent, so that she will not suffer. This arrangement is a stopgap arrangement.

The learned court below is directed to decide the matter independently.

Registry is directed to send back the Lower court case record along with a copy of this order to the concerned court below.

The matter stands disposed of.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE, S.R. SEN
CRP. No. 19 of 2013

28.10.2014

None has appeared for and on behalf of the petitioner.

Mr. G.S. Massar, learned Sr. counsel is present in the court and informed that he is unable to conduct the case today as one of his close friend's wife expired. So, he has to attend the funeral.

Considering the submission advanced by Mr. G.S. Massar, learned Sr. counsel, the matter is adjourned and re-fixed after 1(one) week for hearing.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE, S.R. SEN
CRP. No. 19 of 2014

28.10.2014

None has appeared for and on behalf of the petitioner.

Mr. G.S. Massar, learned Sr. counsel is present in the court and informed that he is unable to conduct the case today as one of his close friend's wife expired. So, he has to attend the funeral.

Considering the submission advanced by Mr. G.S. Massar, learned Sr. counsel, the matter is adjourned and re-fixed after 1(one) week for hearing.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE, S.R. SEN
CRP. No. 25 of 2014

28.10.2014

As suggested by Ms. R. Paul, learned counsel appearing for the petitioner as well as Mr. B. Bhattacharjee, learned counsel appearing for the respondents, list this matter on *11.11.2014*.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE, S.R. SEN
MC(CRP). No. 25 of 2014

28.10.2014

Heard Mr. B. Bhattacharjee, learned counsel appearing for the respondents/applicants who move this instant Misc. Case and submits that he has furnished a copy to the learned counsel appearing for the petitioner/opposite party.

Ms. R. Paul, learned counsel appearing for the petitioner/opposite party acknowledged the receipt of the copy.

Both the learned counsel for the parties suggested that this matter be listed on 11.11.2014.

Ms. R. Paul, learned counsel appearing for the petitioner/opposite party is directed to file the show cause if any before the next date fixed.

List this matter on *11.11.2014*.

JUDGE

D. Nary