

Raj Kumar Burnwal Vs. Tuni Devi

Raj Kumar Burnwal Vs. Tuni Devi

SooperKanoon Citation : sooperkanoon.com/523105

Court : Jharkhand

Decided On : Jun-23-2006

Reported in : II(2007)DMC732; [2007(1)JCR524(Jhr)]

Judge : Narendra Nath Tiwari, J.

Appellant : Raj Kumar Burnwal

Respondent : Tuni Devi

Disposition : Petition dismissed

Judgement :

ORDER

Narendra Nath Tiwari, J.

1. The petitioner, in this writ application, has prayed for quashing the order dated 16.3.2005, passed by learned Additional District Judge-I, Koderma in M.T.S. No. 22 of 2002.
2. The grievance of the petitioner is that learned Court below without taking into consideration the need and capacity of the petitioner has directed to pay Rs. 1500/-per month as alimony; and Rs. 500/- per month as Court expenses.
3. Mr. Bhaiya Vishwajeet Kumar, learned Counsel appearing on behalf of the petitioner submitted that the impugned order of the Court below is arbitrary and

has been passed without giving due consideration of the income of the petitioner. Learned Counsel relied on a decision of learned Single Judge of Karnataka High Court in the case of Smt. Padmavathi and Ors. v. C. Lakshminarayana : AIR2002 Kant424 and submitted that the Court below while granting maintenance under Section 24 of the Hindu Marriage Act has not exercised his discretion judicially and in accordance with law.

4. Mr. K.P. Deo, learned Counsel appearing on behalf of the respondent, on the other hand, submitted that it is an admitted fact that the respondent is legally married wife and the husband has deserted her and forced her to reside in her parental house. The petitioner has maliciously filed the suit for restoration of conjugal life, though he does not want to keep the respondent with him. It has been submitted that the respondent has got no source of income of her own and she is not able to meet the necessary legal expenses and is unable to maintain herself. It has been submitted that the Court below has fixed a bare minimum amount of Rs. 1500/- as alimony to the respondent though it is not possible for one to maintain on the paltry sum of Rs. 1500/- in these days of high inflation. Learned Counsel submitted that Rs. 500/-per month towards monthly expenses of the Court proceeding is also at the lower side. The Court below should have granted more amount for properly meeting the Court expenses.

5. After hearing learned Counsel for the parties and perusing the records, I find that learned Court below, after due consideration on every aspect and after considering the submission that the petitioner is a business man and he has been running two big grocery shops at Jhumri Telaiya and he has also got income from agriculture, has passed the order directing the petitioner to pay Rs. 1500/- per month as alimony and Rs. 500/- per month to meet the litigation expenses. In that view, the decision in Smt. Padmavathi and others (supra) is not applicable to the facts of the instant case.

6. I find no error or illegality in the impugned order so as to intervene in exercise of jurisdiction under Article 227 of the Constitution of India. This Writ Petition is, accordingly, dismissed.

7. Since the opposite party respondent has to defend this application, which has been filed without any valid ground, this writ application is dismissed with cost of Rs. 2000/- to be paid to the opposite party in the Court below within a period of two weeks from the date of receipt/production of a copy of this order.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com