

In the Court of Principal Judge, Family Court, Bhagalpur
Maintenance Case No. 157/2019
(U/s 125 Cr.P.C)

ORDER

24-08-2023

Attendance has been filed on behalf of the applicant and Opposite Party. The parties are present before the Court in person. The Ld. Counsel for Opposite Party pressed the petition dated 02.09.2022. The rejoinder to the said petition was filed on 24.08.2023.

It is submitted by Ld. Counsel for Opposite Party that the Opposite party is resident of Bombay and on account of non-communication of the notice so issued in the instant case he could not appear earlier and consequent thereupon the matter was set Ex-party vide order dated 11.01.2022. It is submitted that no error has been made by him deliberately and the default in appearance so committed was on account of inadvertence and non-communication of summons to him. The Ld. Counsel for Opposite party further submitted that the Opposite party undertakes to proceed with the matter diligently and he will not make any latch in proceeding with the matter any further. It is therefore prayed that the proceeding so set Ex-party against the Opposite party may be recalled and opportunity may be afforded to him for contesting the lis.

Per contra the Ld. Counsel for applicant submitted that the conduct of Opposite party is of coercion and tend to harass the applicant. It is further submitted that the Opposite party only with an intention to harass the applicant did not appear earlier and subsequently made appearance upon the proceeding was set Ex-party against him. It is further submitted that sufficient opportunity was given to Opposite party and the summons against him was even published in

daily newspaper of wide circulation wherein the applicant has incurred great monetary and physical loss. It is therefore prayed that the petition so filed on behalf of the applicant is fit to be rejected.

Heard the parties. Perused the record. On perusal of record it transpires that the suit was admitted for hearing on 25.01.2020 and since thereafter various processes including the issuance of summons through Nazarat and through registered post was issued against the applicant. It further transpires that the summons were published in daily newspaper on the wide circulation and only subsequent thereto the matter was set Ex-party against the Opposite party. The cardinal principle of law is that every opportunity shall be afforded to the parties to present their side in any matter and the adjudication of the matter should be made on contest by the parties. Following the principle of natural justice this Court is inclined to allow the Opposite party opportunity to contest the case but subject to payment of cost by him @ Three thousand Rupees to the applicant. The Opposite party is directed to file his reply at once and appear in person on the next date fixed for further progress in the matter.

The next date fixed on

Dictated

(Udayvant @ Udaywant Kumar)
Principal Judge, Family Court,
Bhagalpur