

IN THE HIGH COURT OF JHARKHAND AT RANCHI
F.A. No.160 of 2024

Gorelal Yadav, aged about 42 years, son of Sri Saryu Yadav,
resident of Village - Akash Kinari Basti, P.O & P.S. -
Katrashgarh, District - Dhanbad (Jharkhand).

..... **Appellant**

Versus

Priyanka Bharti, daughter of Sri Krishna Kumar Yadav,
resident of Village - Pakri Barawan, P.S. Road, Near Post
Officer, P.O & P.S. - Pakri Barawan, District - Nawada
(Bihar), PIN - 805124.

..... **Respondent**

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant : Mr. Ritesh Verma, Advocate
Mr. Anurag Kashyap, Advocate
For the Respondent : Mr. Achinto Sen, Advocate

05/Dated: 10th July, 2025

1. The present appeal has been filed against the order dated 18.04.2024, passed by the learned Additional Principal Judge, Additional Family Court No.II, Dhanbad in Civil Misc. No.10 of 2022, whereby and whereunder the application filed by the appellant for restoration of the order of dismissal of T.M.S No.234 of 2014, has been dismissed.
2. Mr. Ritesh Verma, learned counsel appearing for the appellant has argued the matter at length.
3. It appears from the order dated 18.04.2024 that the petitioner-appellant had filed a divorce suit on the ground of cruelty and desertion against his wife. The Family court had passed ad-interim maintenance and litigation cost and directed the petitioner to pay the same vide order dated 02.02.2017. Thereafter, the petitioner filed a Criminal

Revision No.634 of 2017 dated 05.05.2017 before this Court against the said order dated 02.02.2017. The petitioner had withdrawn the said revision application and thereafter he had filed first appeal before this Court being First Appeal No.119 of 2018, wherein the petitioner was directed to approach the trial court by filing miscellaneous case for restoration of the same and thereafter the petitioner filed the miscellaneous case for restoration of the original suit.

4. We have perused the impugned order, which has been dismissed on twofold grounds. The first ground that no reason has been assigned for restoring the suit which was dismissed for non-prosecution vide order dated 08.02.2018. The second ground has been assigned that the order passed by the court with respect to *pendente lite* has not been complied and how the arrears will be paid there is no reference.

5. We are not concerned at this stage regarding the conduct of the present appellant as to why he is not making payment of the amount of maintenance, but certainly, when this Court has given liberty to make an application for restoration, then it is the bounden duty of the litigant concerned, the appellant herein, to make a proper application assigning the reason that why the case was allowed to be dismissed for non-prosecution.

6. Such liberty was granted by this Court on 25.06.2020, passed in F.A. No.119 of 2018, but, the application was

filed sometime in the year 2022 i.e. about lapse of more than two years.

7. This Court considers the said approach of the appellant, who is husband, that for one reason or other, he is defying the order passed by the learned Family Judge, directing him to make payment of the interim maintenance amount.

8. This Court, therefore, is not inclined to interfere with the impugned order, since, the said order has been passed by taking into consideration of the facts as referred herein above. Accordingly, the present appeal stands dismissed.

9. Pending interlocutory application, if any, stands disposed of.

(Sujit Narayan Prasad, J.)

(Rajesh Kumar, J.)

Ravi-Chandan/-