

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No.62 of 2021

Manoj Mohan Moharana* *Petitioner

Mr. Priya Ranjan Mishra, Advocate
on behalf of Mr. Unmesh Chandra Jena, Advocate

-versus-

Mamini Moharana and others* *Opp. Parties

Mrs. Sangita Mohanty, Advocate

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
21.04.2022**

Order No.

10. 1. This matter is taken up through hybrid mode.
2. Petitioner in this RPFAM seeks to assail the ex-parte order of maintenance dated 20th March, 2020 passed by learned Judge, Family Court Berhampur in Cr.P. No.243 of 2019.
3. In course of hearing Mr. Mishra, learned counsel being authorized by Mr. Jena, learned counsel for the Petitioner submits that the Petitioner has remedy under Section 126 (2) Cr.P.C. to get the ex-parte order of maintenance set aside and in fact the Petitioner has already filed such application, which is pending for consideration before learned Judge, Family Court, Berhampur.
4. In that view of the matter, he may be permitted to withdraw the present RPFAM to pursue the matter before learned Judge, Family Court, Berhampur. He also files a memo in Court, which is taken on record.

5. Mrs. Mohanty, learned counsel for Opposite Parties submits that the Petitioner having partially complied with order impugned herein, the same is not available to be set aside. Learned Judge, Family Court, Berhampur may take up the application filed under Section 126 (2) Cr.P.C.

6. Taking into consideration the submissions of learned counsel for the parties, this Court disposes of the RPFAM with an observation that application filed under Section 126 (2) Cr.P.C. by the Petitioner shall be disposed of on merit as expeditiously as possible, preferably within a period of eight weeks from the date of appearance of the parties along with certified copy of this order.

7. In order to avoid further delay in the matter, the parties to the RPFAM shall appear before the learned Judge, Family Court, Berhampur on 9th May, 2022 along with certified copy of this order to receive further instruction in the matter.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge

s.s.satapathy

