

27 could not be initiated to result in a decree. We respectfully agree with view taken in **Babita @ Gyatri** (supra) that section 27 has not been considered to be a separate and independent matrimonial proceeding so as to entitle the Court to entertain such independent application. The Division Bench went on to refer to a judgment of the Supreme Court in **Balkrishna Ramchandra Kadam vs. Sangeeta Balkrishna Kadam** reported in AIR 1997 SC 3562 to say, the Apex Court had said, section 27 provides alternative remedy to the wife so that she can recover the property, which is covered by the section. Accordingly we hold, return of 'stree dhan' has to be an issue, to be determined at trial in a proceeding under the Act and not independently on application made under section 27.

9. We would like to add, section 25 allows for a spouse to, subsequent to decree for dissolution of marriage, apply for direction on maintenance, either by monthly or gross sum. Section 27 empowers the Court passing decree to include provisions in it with respect to any property presented, at or about the time of marriage, which may belong jointly to the parties. We see that there was no direction in respect of property, joint or otherwise, made in the judgment and decree dated 1st May, 2023 dissolving the marriage.

10. Impugned judgment is set aside in appeal. On 15th May, 2025, the draft was handed over to Mr. Singh on acknowledgement made by him denoting receipt thereof. His client may appropriate same in adjustment of her claim for maintenance, emanating from aforesaid order dated 11th August, 2017. She thus has received aggregate Rs. 7 lacs. Her claim can only be till on or before date of judgment dissolving the marriage i.e. 1st May, 2023. Photocopies of the instrument were signed by Mr. Singh. One was kept in the record and the other handed over to

Mr. Shalvin, who had submitted, in addition to aggregate Rs. 7 lacs, respondent recovered Rs. 2,10,000/- by part execution of impugned judgment. Said sum be also adjusted against respondent's claim pursuant to said maintenance order dated 11th August, 2017 made under section 125 in Code of Criminal Procedure, 1973. We direct accordingly, in exercise of our appellate power under rule 33 in order XLI, Code of Civil Procedure, 1908.

11. Before parting with the case we are required to deal with respondent's contention that appellant was unsuccessful in seeking review of impugned judgment as well as had not preferred appeal against the execution proceeding initiated by her. While grounds of review stand provided in section 114 and the procedure in order XLVII, appeal is statutory right, conferred by section 96 and provided for in order XLI. So far as the execution is concerned, appellant having succeeded in the appeal, the execution case must be dropped, as pursuant to impugned order passed without jurisdiction, being a nullity. The executing Court will act accordingly on such question arisen on adjudication of the appeal, to be determined by the executing Court, under section 47.

12. The appeal is **allowed** and disposed of.

(2025) 5 ILRA 1422

APPELLATE JURISDICTION

CIVIL SIDE

DATED: ALLAHABAD 02.05.2025

BEFORE

**THE HON'BLE ATTAU RAHMAN MASOODI, J.
THE HON'BLE AJAI KUMAR SRIVASTAVA-I, J.**

Special Appeal No. 161 of 2025

Rajvir Singh

...Petitioner

Versus

U.P.Rajkiya Nirman Nigam Ltd. & Ors.

...Respondents

Counsel for the Petitioner:

Pradeep Kumar Rai, Lallan Rai, Prakash Pandey, Praveen Kumar Shukla

Counsel for the Respondents:

Shishir Jian

A. Service Law – Model Conduct, Discipline and Appeal Rules, 1998 – Rules 5(3), 18 (1) & (2) – Disciplinary proceeding – Suspension – Misconduct – Allegations regarding acquisition of the property made in the chargesheet have not been denied – Effect – Possessing immovable property disproportionate to source of income, whether amount to misconduct – Held, the immovable properties possessed by an employee working in the Corporation disproportionate to the known source of income certainly amounts to a misconduct in view of the definition clause provided under Rule 5(3) – Division Bench found no illegality in the Judgment of Single Judge dismissing writ against suspension. (Para 8, 9 and 11)

Appeal dismissed. (E-1)

List of Cases cited:

1. AL Kalra Vs Project and Equipment Corp. of India Ltd.; (1984) 3 SCC 316

(Delivered by Hon'ble Attau Rahman Masoodi, J.
&

Hon'ble Ajai Kumar Srivastava-I, J.)

1. Heard Sri P. K. Rai, learned counsel for the appellant and Sri Sishir Jain, learned counsel for the respondents.

2. This intra-court appeal filed under Chapter VIII Rule 5 of the Allahabad High Court Rules has assailed the judgment/order dated 10.04.2025 passed by the writ court in Writ-A No.3907 of 2025 whereby challenge to the charge-sheet and order of suspension passed against the appellant has failed. The writ petition filed

by the appellant has been disposed of issuing a specific direction to conclude the disciplinary proceedings within a period of two months from the date of receipt of the reply filed by him in response to the charge-sheet and subject to his co-operation in the same.

3. Learned counsel for the appellant has argued that the charges framed against him though are referable to Rule-18 (1) and (2) of the Model Conduct, Discipline and Appeal Rules, 1998 but the allegations are such that the same do not constitute a misconduct.

4. Therefore, not only that the order of suspension is bad in the eye of law but the very initiation of the disciplinary proceedings is without sanctity of law.

5. Learned counsel for the appellant in order to buttress the submission put-forth, has placed reliance upon the judgment in the case of **AL Kalra vs. Project and Equipment Corporation of India Limited reported in (1984) 3 SCC 316** and has taken us through some relevant paras of the same. In the light of the judgment placed reliance upon, it is argued that the same is squarely applicable to the facts and circumstances of the present case.

6. On a plain reading of the Rules, 1998, it is gathered that Rule-5 (3) in relation to allegations made, defines the misconduct as under :-

“Rule-5 (3) "कदाचार" शब्द की व्यापकता पर प्रतिकूल प्रभाव डाले बिना अकारण और आचरण के निम्नलिखित कार्यों को कदाचार माना जायेगा

(1) ----

(2) ----

(3) कर्मचारी द्वारा या उसकी ओर से किसी अन्य व्यक्ति द्वारा आय के ज्ञात साधनों से असंगत धन संबंधी संसाधन या सम्पत्ति या स्वामित्व रखना, जिसका कर्मचारी सन्तोषप्रद रूप से लेखा-जोखा न दे सकता हो।”

7. The charge-sheet issued in the present case has been referred to under Rule-18 (1) and (2) which for ready reference is also extracted hereunder :-

“18-(1) कोई भी कर्मचारी बिना अपने सक्षम प्राधिकारी की पूर्व जानकारी के पट्टे, गिरवी, क्रय, विक्रय, उपहार के रूप में किसी भी अचल सम्पत्ति का न तो अपने नाम से और न अपने परिवार के किसी सदस्य के नाम से अधिग्रहण या निस्तारण नहीं करेगा।

(2) बिना अपने सक्षम अधिकारी की पूर्व अनुमति के, कोई भी कर्मचारी किसी ऐसे व्यक्ति या प्रतिष्ठान के कर्मचारी या उसके मातहत से जिसके साथ उसका पदीय कार्यों से सम्बन्ध हो, किसी अचल या चल सम्पत्ति सम्बन्धी लेन-देन नहीं करेगा।”

8. Definite allegations in the charge-sheet have been levelled pointing out the properties which have been acquired by the appellant without any intimation or permission by the competent authority. The immovable properties possessed by an employee working in the Corporation disproportionate to the known source of income certainly amounts to a misconduct in view of the definition clause provided under Rule-5 sub rule 3 extracted above.

9. In the case at hand, the allegations made in the charge-sheet regarding acquisition of the property have not been denied altogether on the basis of any tangible proof showing that no such title whatsoever has been acquired by the appellant in the properties mentioned in the charge-sheet.

10. In any case once the allegations have been levelled against the petitioner of

acquiring immovable property disproportionate to his known source of income, there is no reason as to why such a proceeding may not be allowed to continue and brought to its logical conclusion at the earliest.

11. On a careful consideration of the judgment/order under appeal, we are of the considered opinion that the judgment passed by writ court does not suffer from any illegality calling for an interference in exercise of appellate jurisdiction of this court on the grounds urged before us.

12. The intra-court appeal bereft of any merit is accordingly *rejected*.

(2025) 5 ILRA 1424

**ORIGINAL JURISDICTION
CIVIL SIDE**

DATED: ALLAHABAD 27.05.2025

BEFORE

THE HON'BLE J.J. MUNIR, J.

Writ - A No. 11589 of 2023

Prithvi Raj Singh

...Petitioner

Versus

**The Chief General Manager (H.R.), Union
Bank of India, Central office, Mumbai**

...Respondent

Counsel for the Petitioner:

Mr. Rajesh Kumar Srivastava

Counsel for the Respondent:

Mr. Vivek Ratan Agarwal

A. Service Law – Constitution of India, 1950 – Article 226 – Disciplinary proceeding – Scope of interference – How far High Court sit in appeal over finding of disciplinary authority – Held, the Court can interfere if the opinion given on the material is perverse, based on irrelevant evidence or ignoring material evidence.