


MHAH050001382021 	<u>ORDER BELOW EXH.24 IN H.M.P NO.33/2021.</u>
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A Hindu wife has filed this application for striking off, of the defence of the husband / respondent in the petition for restitution of conjugal rights filed by her under the provisions of Hindu Marriage Act on the ground of non compliance of the interim order of the maintenance pendente lite dated 25.04.2022 passed by this Court. The applicant, in support of the application has submitted that due to non compliance of the order of the Court, she is living a life of destitution therefore, the the defence of her husband deserves to be struck off. Accordingly, she prayed for allowing the application.

2. The defendant-husband vide his say to the application has submitted that the defence cannot be struck off for non compliance of the order as his poor economical condition has not supported the said compliance. He has not deliberately breached the order of the Court. He has challenged the order before the Hon'ble High Court therefore, he prayed for rejection of the application.

3. It is apparent from record that the order of maintenance stipulates the grant of maintenance of Rs.5,000/- per month to the petitioner-wife to be payable by the respondent during pendency of the petition. The order is dated 25.04.2022. It is not in dispute that the respondent has not complied with the said order and therefore, the

maintenance is outstanding. As consequence thereof, the petitioner is praying for striking off the defence of respondent. The provisions of Section 28A of the Hindu Marriage Act specifically provides the remedy for enforcement of decrees and orders passed under the Hindu Marriage Act. The default in payment of interim maintenance is also covered therein. The striking off the defence of the main petition is nowhere contemplated in the provisions of law, in the eventuality of non compliance of the interim order of the maintenance. Therefore, the application is completely misconceived and accordingly it is liable to be rejected. Accordingly, I proceed to pass following order. :-

ORDER

1. Application Exh. 24 stands rejected.
2. Cost in cause.

Date: 24/01/2024

(R.B.Giri)
Civil Judge Senior Division,
Shrirampur.