



COMMON ORDER BELOW EXH. 24 & 25

(Passed on 17/04/2025)

The learned Advocate for the applicant has moved this application for issuing N.B.W. against the respondent for recovery of arrears of Rs. 1,51,000/-. It is the contention of Ld. Advocate for applicant that arrears of maintenance is pending against the non applicant. In spite of having sufficient means he is deliberately trying to harass the applicant by not paying maintenance. Hence, prayed for issuing NBW against the respondent for recovery of Rs. 1,51,000/-.

2] The Ld. Advocate for respondent has strongly opposed the application and he further submitted that the non applicant has paid Rs. 25,000/- vide Exhs. 16, Exh. 17, Exh. 18 and Exh. 21. He further submitted that today the non applicant has paid Rs. 15,000/-. The non applicant is depositing maintenance in the proceeding which is pending before Court No.1 Shegaon. The non applicant is also ready to deposit remaining maintenance step by step. Hence, prayed for rejection of the application.

3] Perused the application and the record. Admittedly, the judgment was delivered on dtd. 01.12.2023 and the respondent was directed to pay maintenance of Rs. 3,000/- (Rs. Three Thousand) to both applicants from the date of the main application. The

present execution proceeding is filed for recovery of Rs. 1,72,000/-. Record shows that the respondent has paid Rs. 40,000/- till today. As per the ruling of Hon'ble Bombay High Court in case of **Sachin Suresh Bhodhale -Vs- Sushma Sachin Bhodhale 2015(1) AIR Bom. R(Cri) 435**, it was held by Hon'ble Bombay High Court that the Magistrate cannot directly arrest to the respondents by issuing non-bailable warrant. Further, it was held that the realization of the interim maintenance should be dealt with under the provision as embodied under section 125 of Criminal Procedure Code r/w. Section 421 of Criminal Procedure Code. In the instant case, admittedly the distress warrant is not yet served. Therefore at this stage directly NBW cannot be issued against the respondent. Hence, the application is rejected.

Shegaon.
Dt. 17/04/2025

(Smt. M. K. Gote)
Judicial Magistrate (First Class)
(Court No.2), Shegaon.

Certificate

I affirm that the contents of this PDF file order are correct word to word as per the original order.

Name of Steno: K.S.Deshmukh, Grade-III.

Name of Court: Judicial Magistrate F.C. 2nd Court, Shegaon.

Date: 17.04.2025.