

MHBU070003512024



ORDER BELOW EXH. 13

(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. 2,89,000/-. 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. 2,89,000/-.

2] The non applicant has not appeared in spite of service of summons before the Court.

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. 7,000/- (Rs. Three Thousand) to both applicants from the date of the main application. The present execution proceeding is filed for recovery of Rs. 2,89,000/-. 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 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. The non applicant is having knowledge of pendency of this application. In spite of that he is not marking his presence in the present matter. It seems that the non applicant is deliberately not appearing in the matter. Hence, issue distress warrant of Rs. 2,89,000/-

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.