

Misc. Execution 172 of 2025

Order no. 3
Order dt. 11/11/25

Both sides are present.

Heard submission of both sides. Perused the record.

This is an execution petition filed under Sections 144 and 147 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for realization of arrear maintenance amounting to Rs. 60,000 for the period from July 2024 to July 2025.

The opposite party (OP) has filed a petition contending that he had already pronounced Talaq upon the petitioner and that she has since remarried. On that ground, he has prayed for dismissal of the execution petition, contending that the petitioner is not entitled to receive any maintenance for the said period.

Per contra, the petitioner has denied the contention of the OP and submits that no valid Talaq was ever communicated in accordance with law, and no cogent proof of such dissolution or subsequent remarriage has been produced. It is also submitted that the present proceeding pertains to arrears of maintenance for a period prior to or during which she was legally entitled to such maintenance.

Decision and Reasons

On perusal of the record, it appears that the order of interim maintenance was passed by a competent court and the same has attained finality. The present proceeding is limited to execution of that order for recovery of arrear amount.

At the stage of execution, this Court cannot go behind the decree or maintenance order nor can it re-adjudicate the entitlement of the petitioner unless there is a subsequent valid modification or cancellation of the maintenance order by a competent court. The plea of *Talaq* and alleged remarriage may be relevant for consideration in a proceeding for cancellation or modification under the appropriate provision of law, but not in execution proceedings.

Moreover, the OP has not produced any authentic document or evidence showing that the alleged *Talaq* was validly pronounced and communicated in accordance with law or that the petitioner's remarriage has been duly established. Even otherwise, the claim before this Court pertains to arrears up to July 2025, which are referable to a period when the maintenance order was subsisting.

Hence, this Court finds no merit in the objection raised by the OP. The petition filed by the OP is therefore rejected.

Fix **18/11/25** for payment of Rs five thousand at least by the OP. In default, warrant of arrest shall be issued. No further adjournment shall be entertained.

Sd/-

JM, Kalna.