

Misc Case No. 10055/2018
CNR No. WBBD16-006030-2018

Dated 26.09.2023

Today is fixed for order in respect of petition dated 01.03.2023 filed by the O.P.
Both parties have filed hazira.
By filing this instant application, Ld. Advocate for the O.P submits that the petitioner arrived a settlement agreement with the respondent in respect of certain terms and condition which was enumerated in para 6 of the application for mutual divorce being Mat Suit No. 265 of 2021. In the said application for Mutual Divorce, the petitioner agreed that the instant Misc Case under PWDV Act will be treated as withdrawn/Compromise. The said application mutual divorce was solemnly affirmed and verified by both the parties. Hence, Ld. Advocate for the O.P submits that the petitioner is barred to proceed with this case as per her own affidavit sworn in Mat Suit No. 265 of 2021. Hence he prays for rejection of this case on the ground of constructive res-judicata and estoppel.

Ld. Advocate for the petitioner raised strong application and submits that the O.P has filed a petition on the same ground identical to the instant petition which was rejected by this court vide order dated 26.09.22. he also submits that the Mat Suit No. 265 of 2021 has been disposed of as the parties have failed to agree to dissolve their marriage on mutual consent. He prays for rejection of this instant petition of O.P.

I have already heard both side.

Perused.

The so-called settlement agreement between the parties has no effect in this instant case under P.W.D.V Act. Moreover the settlement of marital disputes between the parties by a decree of divorce on mutual consent have failed. Doctrine of res-judicata and estoppel have no role in this instant case.

Considered.

The instant petition dated 01.03.2023 is rejected on contest without cost.

Till date the respondents/O.Ps have not filed any show-cause against the application of petitioner under P.W.D.V Act. The O.Ps have also not filed any affidavit of assets, income and liabilities.

The proceeding is going in delay due to the conduct of O.P as it appears from the record.

One last opportunity is given to the O.Ps to contest the case by filing show-cause, if any.

To.....16/ 11/ 23..... for filing S/C by O.P.

Both parties are directed to file affidavit of assets, income and liabilities.

Typed and corrected by myself

J.M, 3rd Court, Asansol
J.O Code: WB1159