

Mat Suit No. 86/2023
CNR NO. WBCB01-001082-2023.

Order No. 29
Dated 04.09.2025

Parties are present by filing hazira through their respective Ld. Advocates. Today is fixed for further order and hearing of the petitions in c/w Misc (J), two in number, one filed by the petitioner on 25.07.2025 praying for stay of all further proceedings of MAT Suit No. 86 of 2023 till the payment of the arrear alimony by the O.P., and another filed by the O.P. on 30.06.2025 praying for an order, permitting him to pay the arrear alimony in installments. Record is taken up for hearing.

Perused both the petitions and the written objection filed by the petitioner against the petition of the O.P. Heard both sides. Considered.

The petitioner, viz. Ankita Sikdar has filed the petition praying for stay of all further proceedings of MAT Suit No. 86 of 2023 on the ground that the O.P. has not made the payment of the arrear alimony yet and till the payment of the same, the proceeding of the MAT Suit is required to be stayed. In support of the contention, the petitioner has referred to a decision of the Hon'ble Calcutta High Court passed in the case of **Smt. Anita Karmokar v. Birendra Chandra Karmokar, reported in AIR 1962 Cal 88.** Perused the decision of the Hon'ble Court carefully and considered.

According to the Ld. Advocate for the petitioner, the decision of the Hon'ble Court is applicable to his petition as the Hon'ble Court has been pleased to hold that "*the suit for restitution of conjugal rights should have been stayed until the husband paid the sums of money that he had been ordered to pay. I direct that the same be ordered to be done now.*"

On that score, the the Ld. Advocate for the petitioner prays that the suit is required to be stayed.

On the other hand, the Ld. Advocate for the O.P./husband, viz. Jibak Mazumdar, submits that the O.P. is paying the current alimony regularly and has prayed before this Court so that he may be permitted to pay the arrear alimony in installments and therefore, there is no reason that the proceeding of this suit is to be stayed.

The Ld. Advocate for the petitioner, with all fairness, submitted that the petitioner is receiving the current alimony regularly.

After considering the rival submissions and the materials on record, this Court finds that the judgment in *Smt. Anita Karmokar v. Birendra Chandra Karmokar* (Supra), relied upon by the petitioner, lays down that the Court has the power to stay a matrimonial proceeding for non-payment of alimony pendente lite. It is well settled that such power is discretionary and not automatic, and the discretion has to be exercised on the touchstone of fairness and equity. Alimony pendente lite is intended to enable the spouse to maintain herself during litigation, and not as a weapon to obstruct or delay the proceedings. In my opinion, willingness to pay in instalments should not stall the main proceeding.

In that case, the fact was different from this case as in this case, the O.P. husband is paying the current alimony and in that case before the Hon'ble Court, the O.P. husband never made any payment whatsoever.

In the present case, it is admitted by the petitioner herself that the O.P./husband is making regular payment of the current alimony pendente lite. The grievance relates only to the arrears which have accumulated. The O.P. has already approached this Court with a petition, praying for permission to

liquidate the arrears by instalments, which indicates bona fide compliance and willingness to honour the order.

In these circumstances, I am of the considered view that to stay further proceedings of the matrimonial suit would not be justified, as that would unduly delay the adjudication of the substantive issues between the parties. The object of alimony pendente lite is to enable the wife to maintain herself during the pendency of the proceeding, and since the current alimony is being paid, that object stands substantially fulfilled. The arrears can be taken care of by directing payment in reasonable instalments.

Accordingly, the petition filed by the petitioner for stay of further proceedings of MAT Suit No. 86 of 2023 is *rejected*. The petition filed by the O.P. for payment of arrear alimony by instalments is *allowed*.

The O.P./husband is directed to clear up the arrear alimony in 10 equal monthly instalments, commencing from the month of *October, 2025*, in addition to the current alimony which shall continue to be paid regularly.

Failure to comply with this order will entitle the petitioner to seek appropriate relief including execution or such other order as may be permissible in law.

Fix, **29-10-2025** for further examination of PW-1.

Typed by me.

Addl.Sess.Judge,
F.T.C.,
Coochbehar.

Additional Dist. & Sessions Judge
Fast Track Court,
CoochBehar.
JO Code: WB00899