

Misc Execution Case No. 90 of 2025
CNR WBCB07-000562-2025

Order no. 2 dated 11.09.2025

The record is put up today by Ld. Advocate for the petitioner.

Ld. Advocate for the petitioner files a petition for issuance of summons upon the OP through the Superintendent, Dinhata Sub Correctional Home.

Heard Ld. Advocate for the petitioner who submits that, the OP is in judicial custody in connection with the Misc Execution case no. 39 of 2024 and for that reason the petitioner is praying for issuing the summons upon the OP through the Superintendent, Dinhata Sub Correctional Home.

Perused the materials on record.

This Court finds that the next date of this case is fixed on 15.09.2025 and the requisite which the petitioner has filed is reflecting that the next date is mentioned as 15.09.2025. So, from the application of the petitioner is found that she is willing to ensure appearance of the OP in 15.09.2025. Now it is also found that the OP is in Dinhata Sub Correctional Home in connection with Misc Execution case 39 of 2014 and as such it can be presumed that he will be released after 30 days of imprisonment. But the date of such release is not mentioned in this petition.

Now, if the instant petition is allowed and the summons is sent to the OP, then there is every chance that he may not appear on the next date before this Court due to his imprisonment in the other Misc. Execution case. On the other hand if direction is given to produce the O/P on the next date to the Superintendent, Dinhata Sub-Correctional Home then it would result automatic non payment by the O/P even after receipt of summons of this case. That circumstance will be not be justified and would amount to bypassing other modes of compelling payment prior to physical detention of the O/P.

In this circumstances, though this court finds that for service of summons of the case can be sent to the Superintendent, Dinhata Sub-Correctional Home for effecting receipt of summons by O/P but in order to provide sufficient opportunity to him for appearance after receipt of summons a new next is required to be given.

Hence, petitioner is directed to file fresh requisite on the **15.09.2025** which can be sent to the O/P through the Superintendent of Dinhata Sub-Correctional Home after mentioning new next date.

To date (**15.09.2025**) for necessary step by petitioner.

Typed by me

Sd/-

Judicial Magistrate, Dinhata

Sd/-

Judicial Magistrate, Dinhata
JO Code WB01376