

Misc 38/2025 [51/25]
J.O. Code WB 00979

Order no:- 09

Dated:- 07.07.2026

Today is fixed for passing of order with regard to the non maintainability petition dated 25.03.2026 as filed by the OP.

The Petitioner namely Sarika Khata is present by filing hazira through lawyer.

The OP namely Rupen Biswa is present by filing hazira through lawyer.

Ld. Advocate for both the sides are present.

Heard. Considered. Perused.

The record is taken up for passing of order.

Ld. Advocate for the OP has filed the instant petition by submitting that the instant case as filed by the petitioner is not maintainable as the petitioner has filed the case for enhancement of the maintenance amount which was settled between the parties before the National Lok Adalat held on 22.06.2024 vide pre litigation case no 16/2024 .

Ld. Advocate for the petitioner has filed a written objection against the non maintainability petition by submitting that the instant case is very much maintainable as there is a change in the circumstances and he further submits that the non maintainability petition as filed by the OP is also not being supported by any affidavit.

The moot question herein is whether an application for enhancement of maintenance will lie or not in a case where the maintenance amount has been settled between the parties before the Lok Adalat .

The Court of the view that in a case of subsequent change in the circumstances the petitioner will be entitled to the enhancement of the maintenance amount as more than two years have already elapsed from the date of passing of the order and considering the increase in the price of every essential commodity in the market the instant case is very much maintainable.

As such the non maintainability as filed by the OP is rejected on contest without any cost

To **13.08.2026** for evidence of the petitioner.

D/C

Judicial Magistrate
Darjeeling

Judicial Magistrate
Darjeeling

