

Misc Case no. 20 of 2022

Order No. 27 dated 06.08.2025

Today the matter is fixed for further cross of OPW-1.

Both parties are present by filing hazira.

Heard both sides.

Perused the materials on record.

Considered the same.

It reveals from the record that on earlier occasion OP filed affidavit-in-chief of Sekhar Kanti Dasgupta to adduce evidence as OPW-2. It also reveals that the evidence of OPW-1 was not concluded for which the evidence of OPW-2 could not be tendered. It was submitted on the part of the OP that he is out of station in connection with his service for which he is not able to come before this court and OP intends to adduce evidence of his father on his behalf. It was submitted by the petitioner that the present salary certificate has not been filed by the OP in spite of several directions and to submit pay slip the OP need not to come personally before this Court. The OP has opportunity to produce the said salary certificate through his father during the evidence of OPW-2. After hearing at length evidence was not recorded on 12.06.2025 and it was directed to the OP to produce himself on the next date for cross-examination in default his evidence will be expunged. He was also directed to file last salary slip on the next date.

Today the OP has submitted that OP has not been able to produce himself to adduce evidence as he is in California for his service and his evidence may be expunged and the evidence of his father may be taken as OPW-2 so that the case may be proceeded.

The Ld. Advocate for the petitioner raised strong objection towards expunging the evidence of OPW-1 as OPW-1 has cross-examined at length and also raised strong objection towards tendering the evidence of OPW-2. The petitioner is not ready to file any petition stating that she need not to cross-examine the OPW-1 further and it may be concluded so that the evidence of OPW-2 may be taken up.

The Ld. Advocate for OP is ready to tender the evidence of OPW-2 being the father of the OP along with the documents include the pay slip of the OP after expunging the evidence of OPW-1.

From the conduct on the part of the petitioner it reveals that the petitioner is not at all ready to conduct the case or proceed with the case and her only intention to keep the case pending to harass the OP. As per present proposition of law the application for maintenance should be considered only on the basis of affidavit of the income and liabilities of the parties but the present case is pending since 2022 only for recording evidence and it has been deferred day by day on various reasons.

The Ld. Advocate for the OP submitted in open Court to pay maintenance for the child only as per prayer of the petitioner on the ground that the petitioner herself admitted that she is employed and earning money, to dispose of the maintenance case so that the divorce case filed by the petitioner Pritha Dasgupta can be treated.

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It is a case in civil nature, the party has his own liberty towards adducing evidence and the evidential value of evidence to be considered by the court. From the conduct on the part of the petitioner it reveals that she is not at all interested to proceed with the case towards disposal and she is more interested to keep all the cases pending. It should be mentioned here that a litigant should not take the law as their weapon to satisfy their grudge towards other party.

After hearing the matter at length the petitioner was neither ready to file any petition in respect of conclusion of further cross-examination of OPW-1 nor to expunge the evidence for OPW-1 so that the evidence of OPW-2 can be recorded for conclusion of the case. On every occasion different grounds have been raised on the part of the petitioner which ends with the adjournment. The petitioner even not obeying the direction of the Hon'ble Apex Court towards disposal of maintenance case on the basis of affidavit of assets and liabilities. This conduct on the part of the petitioner should not be encouraged.

At the end of the hearing the OP has filed the petition praying for adjournment to fix a date in the last week of February, 2026 contending that the OP is presently out of country for the purpose of his service and will come at the end of February, 2026.

Fixing earlier date will be abuse of process of law and wastage of judicial hour, so the Court is inclined to allow the prayer of the OP.

The petitioner is strictly directed to conclude the cross of OPW-1 on the next date positively without any fail. No further time will be given to the petitioner on any ground whatsoever.

Fix 07.03.2026 for further cross-examination of OPW-1.

D/C by me,

Sd/-

Additional District Judge,
2nd Court, Hooghly

Sd/-

Additional District Judge,
2nd Court, Hooghly