

Money Execution 87/25

Order no. 04 dated 10.03.26

Today is fixed for hearing of petition filed by the opposite party dated 08.01.26 challenging the maintainability of this case.

Heard Ld. Advocate for the petitioner. None moves on behalf of the opposite party.

It is contended by the opposite party in his petition that the petitioner had filed a petition u/sec. 24 of the Hindu Marriage Act which was registered as Misc.Case no. 91/2022 and this Court vide order dated 19.08.2023, was pleased to allow the petition u/sec. 24 of Hindu Marriage Act. It is further contended by the opposite party that the matrimonial suit was finally dismissed for default on 25.03.25. It is further contended by the opposite party that Section 24 of the Hindu Marriage Act is a provision for payment of maintenance in pending litigation to support the petitioner only during the pendency of the suit and expenses of legal proceedings. It is further contended that since the original matrimonial suit was dismissed, the instant case claiming execution of the maintenance amount has become not maintainable.

Ld. Advocate for the petitioner / wife submitted that the period for which the maintenance amount is claimed in the instant execution case relates to the period when the matrimonial suit was pending. No amount of alimony pendente lite was claimed for any period after the disposal of the matrimonial suit and accordingly the instant execution case is very much maintainable.

Having heard the Ld. Advocate of the petitioner and after perusal of the record I find that the matrimonial suit no. 85/2021, was filed by the opposite party of this case namely, Debasis Sur against the petitioner of this case namely Srabani Sur. In that matrimonial suit after the wife had obtained an order u/sec. 24 of the Hindu Marriage Act, in Misc.Case no. 91/22, the petitioner / husband stopped proceeding the suit and ultimately the suit was dismissed for default. I further find that the period for which arrears of alimony pendente lite was claimed is from January 2025 to March 2025. The order of alimony pendente lite was passed on 19.08.2023 and the effective date of the order was from 10.06.2022. I further find that the mat suit was dismissed for non-prosecution on 25.03.2025. Thus, I find that the period for which the alimony pendente lite was claimed in this case, relates to the period during which the matrimonial suit was pending and accordingly I find that the instant case is very much maintainable.

Hence, it is

ORDERED

the petition dated 08.01.26 filed by the opposite party is rejected but without cost. Opposite party is directed to make full payment of the arrears in default necessary order shall follow.

Fix 16.04.2026 for payment by the opposite party.

**Additional District & Sessions Judge
Fast Track 2nd Court, Hooghly**

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