

Money Execution 5/25

Order no. 12 dated 10.03.26

Today is fixed for passing order on the petition filed by the opposite party dated 10.07.25 challenging the maintainability of this case.

It is contended by the opposite party 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 submitted by the Ld. Advocate for the opposite party that Section 24 of the Hindu Marriage Act is a provision for payment 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 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 both sides 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 June 2022 to December 2024. The order of alimony pendente lite was passed on 19.08.2023 and the effective date of the order

continued to the next page...

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 10.07.2025 filed by the opposite party is rejected on contest 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 of opposite party.

Dictated and Corrected by me:

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

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