

M. Ex 107/2022 (CIS M Ex 107/2022)

J.O Code: WB01192

order dated 14.09.2023

Today is fixed for payment of Rs.15,000/- and hearing of the petition dated 12.07.2023. Both parties filed hajira.

The OP paid Rs 9,000/-. The petitioner filed party receipt. Let it be kept with the record.

The contention of the petition dated 12.07.2023 is that the petitioner intended to add arrear maintenance amounting to Rs.60,000/- from July 2022 to June 2023 with the present claim.

The Ld advocate for the OP raised verbal objection and submitted that the instant petition is filed beyond statutory period of one year and therefore, the instant petition is liable to be rejected.

Hd. Considered.

Perused the record.

The present misc execution case was filed on 13.07.2022 for realizing the arrear interim maintenance which was granted to the petitioner in Misc Case 05/2018 vide order dt. 20.04.2018. The said order was effective from the date of passing order. Now the petitioner filed the present case on 13.07.2022 claiming arrear interim maintenance amounting to amounting to Rs. 60,000/- from 01.07.2021 to 30.06.2022. OP paid some arrear maintenance after issuance of WA against him.

Therefore, it appears that the OP admitted the claim of the petitioner in the present case regarding Rs. 60,000/- as prayed for at the time of filing of the case. It means the OP has no objection to the claim of the petitioner from 01.07.2021 to 30.06.2022. In **Shantha Vs. B.G. Shivananjappa** it was held by the Hon'ble Apex Court that liability to pay maintenance is a continuing liability. The subsequent petition dt. 12.07.2023 filed by the petitioner in the present case is supplementary or incidental as the main petition is pending.

The petitioner only prayed for that continuous arrear maintenance which remains pending upon the OP.

In my opinion the petitioner is entitled to the arrear maintenance as prayed for in the petition dt. 12.07.2023 in the present execution case.

Hence, it is,

ordered

that the instant petition dt. 12.07.2023 filed by the petitioner is hereby allowed on contest but without cost.

Let the arrear maintenance due amounting to Rs. 60,000/- for the period from July 2022 to June 2023 be added to the remaining claim in the present case.

Fix 13.10.2023 for payment.

D/C by me,

J.M 3rd Court, Serampore