

Misc Ex 158/2017

Order dated 29.09.2018

Today is fixed for hearing of the petition dated 20.04.2018 filed by the OP. Both parties are present.

Ld. Advocate of the OP submitted that Tapati Deyashi has filed one Misc case being no. 290/2016 against him and by practicing fraud upon him summons was served to this OP and due to that one exparte order was passed against him. After being informed about that order, he has filed another Misc case being no. 760/2017 u/s. 126 Cr.P.C. against the petitioner/wife. That is pending before this court for hearing.

Mentioning such fact, Ld. Advocate of the OP prayed to stay the further operation of this instant execution case till the disposal of the Misc case No. 760/2017 which was filed by this OP.

Ld. Advocate of the petitioner raised strong objection and submitted that there is no denial regarding the marriage between the parties. She further submitted that till today this OP never paid a single penny to the petitioner and prayed to reject this petition.

Heard Ld. Advocate of both sides.

Perused the materials on record.

During the hearing, OP failed to submit any document from where it can be found that exparte order passed in respect of Misc case no. 290/2016 was vacated or stayed by any higher forum. Further, we have to keep it in our mind that it is a beneficiary legislation enacted in favour of the destitute lady and it is duty of every husband to maintain his wife. There is no chance to suffer any kind of irreparable loss if the husband make payment to his wife as her maintenance.

Considering the whole circumstances, the petition filed by the OP is hereby rejected.

Fix ____13.11.2018____ for payment.

JM, 1st Court, Howrah