

M. Ex. Case No.55 of 2023

Order dated 13.12.2023

Today is fixed for further payment of Rs.50,000/-.

Petitioner files hazira.

O.P files a absent petition.

Perused the petition and other connected document on record.

This is an application filed by the petitioner praying for issuing warrant of arrest against OP on the ground stated therein.

It has been contended by Ld. Advocate for the petitioner that the Court by its order dated 07.11.2023 directed the O.P to pay Rs.50,000/- to the petitioner in terms of arrear maintenance but in spit of specific direction of this Court the O.P has only paid Rs.10,000/-. As such she has filed the present petition to issue warrant of arrest against the O.P to recover arrear maintenance.

Ld. Advocate for the O.P raised strong objection and submits that the Hon'ble High Court, Calcutta by its order dated 25.08.2023 in Case No.CO 51 of 2023 with CAN 1 of 2023 directed the O.P to pay Rs.10,000/- per month as interim maintenance and the same shall continue and so the present petition is liable to be dismissed.

Heard the Ld. Advocate of both sides in full and considered.

Now, on careful perusal of the order of the Hon'ble High Court, Calcutta dated 25.08.2023 passed in CO 51 of 2023 With CAN 1 of 2023 it appears to me that the Hon'ble Court has pleased to direct the O.P to pay Rs.10,000/- per month in connection with a different Suit and in the said order the Hon'ble Court has not stayed the proceeding of the present Execution Case. Moreover, on further perusal of the documents filed before me I find that the O.P preferred a revision before Hon'ble High Court, Calcutta being CRR 2011 of 2023 challenging the order of this Court dated 27.02.2023 passed in Misc Case 16 of 2020 and the said order the Hon'ble Court also neither set aside the order dated 27.02.2023 of this Court nor stayed the proceeding of this present case. It is also pertinent to mention that the present execution proceeding is an independent proceeding and the proceeding of this case has not been stayed either by the Hon'ble High Court or by Ld Additional District and Sessions Judge, Howrah. So, I do not find any predicament to proceed with the present Execution Case.

In view of the discussion made hereinabove I am inclined to allow the present petition.

Hence, it is

ORDERED

That the petition dated 07.12.2023 filed by the petitioner be and same is considered and allowed on contest.

Issue W.A against the O.P.

Petitioner is directed to file requisite at once.

To 12-03-2024 for E.R of W.A.

D/C

J. M. 2nd Court

Howrah