

Mat. Ex. 02/25 (CIS 02/25)

Order dated 10.11.2025

Today is fixed for SR and appearance of the JDR.

This execution case has been filed for recovery of payment of arrear maintenance pendente lite by the OP-husband in terms of the order in Mat suit 303 of 2023 on 02.02.2025.

The petitioner-wife filed legal appearance.

Ld counsel for the petitioner-wife is present before the court.

Received notice unserved by the process server with report on 12.09.2025 and 06.11.2025 citing the paucity of time.

Now where an application is made for execution of decree for payment, the court under order 21 rule 37 CPC, instead of issuing warrant for arrest of the JDR may issue notice calling upon him to file show cause why he should not be committed to the civil prison. However, if the court is satisfied by affidavit that the JDR is likely to abscond with the object of delaying the execution of decree, then such notice shall not be necessary.

It is submitted by the Ld counsel for the petitioner that warrant of arrest be issued against OP-husband under order 21 rule 38 CPC unless the amount ordered to be paid together with interest and cost which the OP-husband is liable to pay, be sooner paid.

As per order 21 rule 30 CPC every decree for payment of money may be executed by detention in civil prison of the JDR or by attachment or sell of his property.

Considering the above aspect let process under order 21 rule 38 CPC be issued against the OP/husband for non payment of maintenance pendente lite.

Fixing 31.01.2026 for ER of the process issued against the OP/husband/JDR under order 21 rule 38 CPC.

Petitioner/DHR is directed to file requisite.

Addl. Dist. & Sessions Judge,
FTC-I, Alipurduar.

Additional Dist. & Sessions Judge,
1st Fast Track Court, Alipurduar.