

Misc. Exn. 173 (IV)2025

29.10.2025

Today is fixed for hearing and payment.

Both the parties are present by filing their respective haziras.

OP had made payment of Rs.3000/-.

Petitioner had submitted money receipt of the said amount. Let the same be kept with the case record. She had also made endorsement of receipt of the said amount in the order-sheet.

Petitioner had submitted WO against the said petition along with proof of payment. Let the same be kept with the case record.

Now the record is taken up for hearing of the petition filed by the OP dated 22.07.2025.

By filing the petition dated 22.07.2025 Ld. Advocate on behalf of the OP had submitted before the Court that in the instant execution case, the claim made by the petitioner from 01.04.2024 to 31.03.2025 i.e. Rs.72,000/- is a legal claim which is filed u/s.125 Cr.PC. On the other hand, the petitioner has also claimed Rs.1000/- per month from 17.07.2019 to 31.12.2023 which is an illegal one as the OP had already made payment of the said amount in the case filed under D.V. Act. The OP further contended that the petitioner cannot claim the maintenance of D.V. Act and 125 simultaneously and thus claimed the amount of Rs.53,462/- as an illegal claim and prayed for passing a necessary order for the purpose of rectification or modification of the petition filed by the petitioner in the instant execution.

By submitting WO against the said petition, the petitioner had submitted before the Court that before filing a case u/s.125 Cr.P.C. before this Court the petitioner had filed a case of PWDV Act before the Ld. Court of 3rd JM, Ranaghat in the Misc. Case being No.213/2011 where the Court had directed the OP to pay Rs.5000/- per month to the petitioner vide order dated 06.05.2013. For the purpose of execution of the said order, Misc. Execution No.212(iv) 2024 was filed by the petitioner before the Court of Ld. 3rd JM, Ranaghat for the purpose of obtaining the payment from 17.07.2023 to 31.12.2023 amounting to Rs. 30,000/-. After that the petitioner had obtained an order passed by Ld. Court of 2nd JM, Ranaghat in Misc. Case No.287/2019 vide order dated 28.12.2023 vide which the OP was directed to pay Rs.6,000/-per month to the petitioner and the said order was given effect from the date of filing i.e. 17.07.2019. As the petitioner had already filed execution claiming Rs. 5,000/- per month before Ld. 3rd JM, Ranaghat, Nadia till the period of 31.12.2023. In such circumstance, she had added a further claim of Rs. 1,000/- per month for the period of 17.07.2019 to 31.12.2023 which amounting to Total Rs. 53,462/- for a period of 53 months 14 days.

Heard both sides in full.

Perused the materials available in the record.

Considered.

(Contd...)

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After perusal of the materials of the record, it appears that the petitioner had filed this instant execution case by claiming the maintenance order as passed by this Court in Misc. Case 287/2019 dated 28.12.2023 where Rs.6,000/- is awarded to the petitioner per month from the date of filing of this case. Now, the petitioner had also filed a case against the OP before the Court of LD. JM, 3rd Court, Ranaghat under PWDV Act being Misc. Case no. 213/2011 where she was entitled to get Rs. 5,000/- per month and received the said amount till 31.12.2023. Now as the petitioner was awarded a higher amount of Maintenance by the Order as passed by this Court in Misc. Case 287/2019 dated 28.12.2023 she had put the said order in execution and had also claimed the enhanced rest amount from the period of 17.07.2019 to 31.12.2023 from the OP. Here the claim of the petitioner for the period of 53 months 14 days is a valid claim as during the said period OP had paid her Rs. 5,000/- per month whereas as per order passed by this Court in Misc. Case 287/2019 dated 28.12.2023 she is entitled to get Rs. 6,000/- per month for the said period between 17.07.2019 to 31.12.2023.

Thus the petitioner had not made any illegal claim in the instant execution case and the petition filed by the OP dated 22.07.2025 is considered and rejected on contest.

Fix 24.11.2025 for further payment of Rs. 6,000/- by the OP.

Dictated & Corrected by me.

Sd/-

Judicial Magistrate 2nd Court,
Ranaghat, Nadia

Sd/-

Judicial Magistrate 2nd Court,
Ranaghat, Nadia
(JO Code- WB01493)