

Misc Ex Case No. 580 (IV)/2024

Order dated : 13.10.2025

Today is fixed for hearing of petition of non-maintainability filed by the OP dated 10.09.2025.

Petitioner and OP are present by filing hajira.

Petitioner had filed a petition for making rectification in the claim in the petition filed in the instant execution case along with copy of order sheet and final claim petition.

Let the same be kept with the record.

Heard both sides in full.

Perused the materials available in the record and considered.

On earlier date the OP had filed a petition of non-maintainability of this instant execution proceeding stating that the petitioner had filed this case to execute the interim order dated 17.06.2016 passed in Misc Case 299/2015 and as the notice of the said Misc Case was not received by the OP, thus the interim order executed by the petitioner is illegal and prayed for dismissal of the case and also prayed refund of the payment dated 10.09.2025.

Per contra today the petitioner had preferred one petition for rectification of the petition stating that due to bonafide inadvertence he had filed this case on the basis of the interim order dated 07.12.2016 instead of final order dated 21.08.2018 and prayed for making necessary correction in the instant petition.

The prayer of petitioner appears to be bonafide in nature and thus considered and allowed.

Now whether the OP had received summon in Misc Case 299/2015 or not cannot be adjudicated in this case as for the purpose of adjudicating the same, the OP should follow due course of law.

The petitioner is directed to file rectified execution petition along with the further claim as filed today.

The payment made by the OP on 10.09.2025 will be adjusted with the claim of rectified execution filed by the petitioner.

Fix 13.11.2025 for filing rectified execution petition by the petitioner.

Typed and printed by me:

Sd/-

Judicial Magistrate 2nd Court,
Ranaghat, Nadia

Sd/-

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