

CEX Case no. 37/2022

Order dt. 27.03.2023

Today is fixed for ER of WA.

Both sides are present.

OP appeared today and files on written objection and one written statement under Order 8 Rule 1 CPC. Copy served.

By filing the aforesaid objection and written statement along with the medical prescription dtd. 25.03.2023 ld. Advocate for the OP submits that the award of maintenance passed against this OP on ex parte is so high that OP is not in a position to meet the same.

Ld. Advocate for the OP relying on the said prescription urges that condition of this OP husband so vulnerable. Ld. Advocate for the OP suggested that this OP husband is ready to pay a lumpsum amount in the form of negotiation towards the settlement of all the disputes and intend to get relief from legal proceedings.

Heard the ld. Advocate for the petitioner who submits that written objection and statement as filed on behalf of the OP husband are baseless, misconceived and untenable in the present proceeding.

Perused the case record. The instant execution case was initiated on

23.12.2022 on the basis of the ex parte order passed by this court on 27.06.2022. No payment has yet been made by the OP. The medical prescription dtd. 25.03.2023 reflects that OP has been suffering from fever accompanying with running nose. Needless to say the said reason cannot be a sole ground to refuse the payment or stay the instant execution proceeding and deprive the petitioner from the fruit of beneficial legislation.

In the said written objection ld. Advocate for the OP does not raises any justified ground to stay the instant execution proceeding against the OP. If the OP is feeling aggrieved himself for the ex parte order passed against him there are some other legal avenues available to the OP for redressal. Ld. Advocate for the petitioner is corrected states that the step adopted by the OP in form of written objection or written statement as per CPC is misconceived one and untenable. At this juncture ld. Advocate for the OP submits that OP is ready to pay Rs. 5000/- today.

One money receipt showing Rs. 5000/- has been filed by the petitioner. Let it be kept with the case.

Recall WA at this stage.

Fix 12.04.2023 for further payment.

D/C by me;

Judicial Magistrate,
Bidhannagar