

M Ex Case No. 67/2022

Order dated: 14.01.2026

Today is fixed for passing order in respect of the petition dated 05.12.2025.

Both the parties are present by filing their hajira.

Ld. Advocate on behalf of the OP had submitted one rejoinder along with the copy of the petition filed by him before the Court of Ld. District Judge at Alipore being Mat Suit No. 42/2016.

Let the same be kept with the record.

Ld. Advocate on behalf of the OP had submitted one server copy of judgment passed by Ld. ADJ, 1st Court Alipore dated 24.12.2025 in Mat suit no. 42/2016. Let the same be kept with the record.

On earlier date both the side was heard in full in respect of the petition filed by the OP fated 05.12.2025.

By filing the said petition of non-maintainability, the OP had stated that the petitioner had filed this case with a false identity as Sreejoyee Roy Chowdhury and she is failed to produce any document and valid ID proof in the name of Sreejoyee Roy Chowdhury and she was withdrawing the money by producing ID of Sreejoyee Chakroborty and thus prayed for dismissal of the instant execution procedure and passing necessary order to that effect.

By filing W/O against the said petition and stated that from the year of 2022 to March 2025, the OP did not challenged the identity of the petitioner and was paying regularly. Moreover the self same matter had already been decided by this Court in order dated 05.07.2025. Moreover, The OP had filed Mat suit before the Court of Ld. District Judge at Alipore being Mat Suit No. 42/2016 where the name of the petitioner is mentioned as Sreejoyee Roy Choudhury wherefrom it can be concluded that Sreejoyee Roy Choudhury and Sreejoyee Chakraborty is one person and thus prayed for rejection of the instant petition.

By submitting rejoinder today, the OP had submitted that the petitioner had made false statement in the W/O filed by her and prayed for initiation of proper proceeding against him.

Heard both sides in full.

Perused the materials available in the record.

Considered.

From the averments made by both the parties it appears that Ld. Advocate on behalf of the OP had challenged that Sreejoyee Chakraborty does not have any valid ID proof as named as Sreejoyee Roy Choudhury. After perusal of the materials available in the record as well as documents submitted by both the parties, it appears that on 03.04.2025 the OP had submitted a petition of self same in nature stating that the petitioner has made false affidavit by using the identity as Sreejoyee Roy Chowdhury and at the time of disposing off the said petition this Court vide order dated 05.07.2025 had specifically observed that “ throughout the said petition, there is no doubt from the side of the petitioner or the OP that the lady petitioner Sreejoyee Roy Choudhury @ Chakraborty is one and same person who is the married wife of Subham Roy Choudhury, notwithstanding pending cases of divorce/annulment/invalidation, and it is the same lady who had applied for maintenance and has been allowed so.

The thought employed for stopping maintenance only for non-usage of matrimonial surname of being known or identified by maiden surname is in itself regressive and bereft of judicial reason and a direct challenge and affront to the fundamental right to life and persona liberty guaranteed u/A 21 of the Constitution of India, when there is no case for challenge to the identity of the petitioner who Ld. Advocate admits as his daughter in law for whom the maintenance is being paid and is being received by” and thus rejected the said petition. Therefore, when once the matter has already been decided by this Court, therefore, this Court cannot again decide a self-same matter

which has already been decided by this Court. Moreover, if the OP was aggrieved by the said order he should have preferred a revision against the said order instead of filing another application containing self-same subject matter as the Court cannot rectify or modify its own order passed on previous occasion. Moreover, raising doubt about the identity of the petitioner cannot be the sole reason to dismiss the instant execution procedure. **Thus the petition of non-maintainability dated 05.12.2025 filed by the OP is considered and rejected being misconceived one as decided by this Court earlier vide order dated 05.07.2025.**

From the document submitted by the OP it appears that he himself had prayed for the annulment of the marriage between Sreejoyee Chakraborty and Subham Roy Choudhury by filing Mat Suit 42/2016 before the Court of Ld. District Judge at Alipore, wherefrom it can be concluded that the factum of the marriage is not under challenge here and during hearing Ld. Advocate on behalf of the OP had also admitted the factum of marriage. The only point of issue raised by the OP is the identity of the petitioner containing that the petitioner namely, Sreejoyee Chakraborty who does not have any document in her name as Sreejoyee Roy Choudhury.

Therefore, the petitioner is directed to submit one affidavit before the Court in this context as Sreejoyee Chakraborty, D/O- Late Samar Chakraborty and Sreejoyee Roy Choudhury, W/O- Subham Roy Chwdhury is one and identical person.

Fix 05.02.2026 for payment and submission of affidavit by the petitioner.

Typed and printed by me:

Judicial Magistrate 2nd Court,
Barrackpore, North 24 Parganas

Judicial Magistrate 2nd Court,
Barrackpore, North 24 Parganas
JO Code- WB01493