

M. Ex. 429/2023

Dated : 27.03.2024

Today is fixed for S/R.

Petitioner files hazira.

O.P has not appeared in this case.

The main Maintenance Case being no. 842/2021 is also fixed today. In that case the court has directed the OP to be present.

Ld. Advocate for the petitioner has stated that the OP is intentionally avoiding the service of summons in connection with the execution case and accordingly the court has fixed both the Maintenance Case and the Execution Case on the same day. Thereafter the Court has directed the Ld. Advocate appearing for the OP in the Maintenance Case to receive the summons on his behalf in c/w with the instant Execution Case. But the Ld. Advocate refused to accept the same on behalf of the OP. Then vide order dt. 15.03.2024 the OP was directed to be present before the court on the next date i.e. on 22.03.2024.

But on 22.03.2024 the OP was absent on repeated call then the court has directed the OP to be present on the next date i.e. on 27.03.24 and the order was passed in presence of his Ld. Advocate for the OP, Barnali Dutta

Then on 27.03.2024 the OP has filed a petition in M 842/2021 through his ld advocates praying for exemption from his personal appearance, the said petition is neither verified nor supported by any affidavit. Moreover, the OP has not signed the said petition. Ld. Advocate for the petitioner has strongly objected to the petition under hearing filed by OP on the ground that the OP is deliberately avoiding the service of summons in c/w M. Ex. Case no. 429/2023 arising out of the interim order of the instant case.

Ld. Advocate for the OP has filed some medical documents sent to her by the OP through 'Whats-app Messenger' as per the submission of Ld. Advocate for O.P. Considering all the court is of the opinion that the OP is deliberately avoiding the service of the summons in M. Ex. no. 429/2023.

Hence the petitioner is directed to serve the copy of summon of M. Ex. 429/2023 to Ld. Advocate of OP, namely Advocate Barnali Dutta who is further directed to serve the summon to the OP through Whats-app Message and file a report to this court by the next date.

Later in connection with M. Case no. 842/2021 :

BC-I has informed this Court that Ld. Advocate for the OP has refused to sign the order and received the copy of summon but she has read the entire order and she has knowledge of the same.

Considering all, the Court is of the opinion that the OP Samrat Chakraborty and his Ld. Advocate Barnali Dutta appearing on his behalf in this case is willfully disobeying the order of this court. After giving several direction the OP is not come before the Court for last three occasions. But there is communication between them as the Ld. Advocate for OP has filed one medical document of OP dt. 26.03.2024. Thus considering all, the Court is of the opinion that the OP is intentionally disobeying the order of the court and delaying the procedure.

Maintenance case is a beneficial legislation and the same is made to prevent destitution . In the instant case the OP has admitted that his monthly income is Rs 50,000/- to 60,000/- being an astrologer and he has purchased two flats and two cars. Interim maintenance order is passed not only for the petitioner but also for minor children of the OP so that the upbringing of the child may not hampered in any manner.

Hence, considering all the court has opinion that the OP is deliberately avoiding the service. And refusal is a good service.

Hence issue D/W of Rs 2,16,000/- against the OP.

Let a copy of the order sheet be sent to the O/C Kalyani, District Nadia, with a direction to file a report positively by the next date.

To 25.04.2024 for E/R of W/A.

Dictated and corrected by me.

Prarthana Banerjee
(JO Code- WB01343)
Judicial Magistrate,
2nd Court, Barrackpore

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