

MAT. SUIT.3397 of 2018
CNR NO.WBSP01-017758-2018
Present: Sarajit Mazumder [J.O Code: WB00646]
Order No.46
Dated 02-12-2024

Today is fixed for hearing application dated 31-01-2020 for injunction under Order 39 Rule 1 & 2 and objection, if any, in the meantime as last chance.

Both the parties are represented through their respective learned advocates and on their behalf lawyers' haziras are filed.

Learned advocate for petitioner files written objection to application for injunction filed by the respondent. Let the same be kept with the case record.

Application for injunction under Order 39 Rule 1 & II of C.P.C read with section 151 of C.P.C filed on behalf of the respondent is taken up for hearing.

Heard learned advocate for the respondent who submits for an order of injunction restraining the petitioner from alienating the schedule property or to create any third party therein on the ground that petitioner may flee away selling the property.

Learned advocate for the respondent raises objection on the ground that the Mat suit is pending since 2018. This petitioner has been paying alimony pendente lite. Not a single penny is due but this respondent by filing one after another application trying to drag the suit to an indefinite period of time.

Perused the case record. Considered.

It is admitted by learned advocate for the respondent that the petitioner has paid upto date alimony pendente lite in terms of the order of the court and not even arrear is due.

There is nothing on record wherefrom it can be accepted that petitioner may flee away selling the property. On the contrary, it is admitted that the petitioner has paid upto date alimony pendente lite. Right to property though not a fundamental right yet a constitutional right. I find no urgency in the matter so as to restrain the petitioner as prayed for. Accordingly, application for injunction under Order 39 Rule 1 & II of C.P.C read with section 151 of C.P.C filed on behalf of the respondent is dismissed on contest without cost.

Fix 27.02.2025 for framing of issue.

Dictated & corrected by me

Sd/-Sarajit Mazumdar
ADJ, 1st Court, Alipore

Sd/-Sarajit Mazumdar
Additional District Judge,
1st Court, Alipore