

**In the Court of Additional District & Sessions Judge,  
2<sup>nd</sup> Court, Sealdah, South 24 Parganas**

**Mat Suit 203 of 2017**

**CIS No.194 of 2017**

**(CNR No. WBSP07-001884-2017**

**Present: Sri Abir Chatterjee, Additional Dist. & Sess. Judge.**

**Judicial Officer's Code : WB00833**

**Order Number 44 dated 29.01.2025**

Hazira is filed on behalf of the respondent. One absent petition is also filed for the respondent/wife.

No step taken on behalf of the plaintiff.

None appears on call for the plaintiff on repeated calls. It is now 12.30pm. In view of the earlier order No.39 dt.23.11.2023, the petitioner/husband was directed to take note that stay petition will be disposed in his absence if he remains unrepresented.

The stay petition dated 17.01.2020 filed on behalf of the respondent/wife is taken up for hearing.

Heard the respondent/wife.

It was submitted that petitioner had filed an application u/s 36 of the Special Marriage Act seeking maintenance pendente lite as well as litigation costs from the Respondent. The application is still pending for disposal. That Hon'ble Court in CO No.3821/2018 vide order dt.14.05.2024 had directed the petitioner/husband to go on paying Rs.7500/- per month till disposal of the application U/s 24 of H.M. Act. It was further stated that petitioner/husband did not pay the maintenance as directed by the Hon'ble Court for which the instant proceeding should be stayed.

Perused the case record. Misc case 24 of 2017 filed by the petitioner/wife for maintenance and litigation cost which is pending.

In the case of **Sunil Bansal v. Meeta Bansal, 2018 SCC OnLine Cal 1501** Hon'ble Court observed that *"Thus, what is held by this Court is that in a given case without making provisions for necessary expenses of the proceedings, it would be impracticable to insist upon the defending spouse even to file a written statement. Therefore, this Court came to the conclusion that unless application made under Section 24 of the said Act was decided, the Court could not have proceeded to pass an ex parte decree."*

Again in the case of **Arati Mondal v. Bhupati Mondal, 2009 SCC OnLine Cal 938** it was observed *"We do not, for a moment, dispute the proposition of law that a matrimonial Court, for non-compliance of the order of payment of alimony*

*pendente lite, can stay the matrimonial suit if the defaulting party is the petitioner and even dismiss the proceedings if the default is intentional and at the same time, strike out the defence of such party if such party is defendant.”*

Considering the ratio of the pronouncement of the Hon'ble Court this is the fit case for granting stay and accordingly Mat. Suit being No. 203/2017 is stayed.

Matter be uploaded in the CIS.

Fix 17.03.2025 for further order along with Misc. Case.

*Dict. & Corr. by me,*

*Addl. Dist. & Sess. Judge, 2<sup>nd</sup> Court,*  
*Sealdah.*

*Addl. Dist. & Sess. Judge, 2<sup>nd</sup> Court,*  
*Sealdah.*