

AD. 7.
August 25, 2021.
MNS.

C. O. No. 145 of 2021
with
CAN 1 of 2021
(Via video conference)

Partha Sarathi Bhowmick
Vs.
Smt. Alivia Bhowmick

Mr. Goutam Guria

... for the petitioner.

Mr. Soujanya Bandyopadhyay

...for the opposite party.

The present challenge has been made against an order, whereby the defence of the husband-petitioner was struck off for non-payment of alimony on repeated occasions.

Such course of action is permitted in law, as settled by various decisions of this Court.

Upon hearing learned counsel for the parties, it is evident that the petitioner claims still not to be in a financial position to pay all the arrears of alimony, as directed by the trial court and affirmed by this Court in a previous revisional application.

Since the order of alimony has attained finality and the petitioner has repeatedly defaulted in clearing off the same, there was no alternative

course of action open to the trial court than striking out the defence of the petitioner.

As such, the trial court was justified in passing the impugned order, thereby directing the arrears to be paid by the petitioner, in default defence to be struck out automatically. Since such arrears have admittedly not been cleared till date in their entirety, the defence of the petitioner automatically stands struck off by operation of the impugned order. As such, the necessary consequences will follow and the suit will be heard *ex parte* against the husband without any opportunity of filing further defence being given to the petitioner.

C. O. No. 145 of 2021 is dismissed accordingly, thereby affirming the impugned order dated July 7, 2020 passed by the Additional District Judge, Fifth Court, Paschim Medinipur in Matrimonial Suit No. 53 of 2018.

It is made clear that neither this order nor the order impugned herein shall stand in the way of the opposite party-wife levying execution of the alimony order in case of continuance of violation of such order by the petitioner-husband.

The trial court is requested to expedite the hearing of the suit in view of the long pendency of

the same, along with connected applications, if any.

In view of disposal of the main revisional application, CAN 1 of 2021 is disposed of consequentially.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)