

12.4.2023
Court No.35
Item no.13

C.R.R. 474 of 2016
Sandhya Bhattacharya
Vs.
State of West Bengal & Anr.

Mr. Abhijit Basu,
Mr. Arghya Kamal Das

... For the petitioner

Mr. Narayan Prasad Agarwala,
Mr. Pratick Bose

... For the opposite party

This matter has come up in the list pursuant to this Court's earlier direction vide order dated 21.12.2022.

Mr. Abhijit Basu, representing the petitioner, is present through video conference. Mr. Agarwala, representing the State, is present physically in Court.

Record reveals that previously vide order dated 21.12.2022, the case has already been adjudicating and disposed of on merit. A report was sought for the purpose of ensuring as to whether the son of the present petitioner/mother has been complying with this Court's order in the interregnum.

On the basis of a report as above, Mr. Agarwala submits that so far the opposite party no.2, namely, Prabir Bhattacharya is concerned, he has not complied with the order of this Court, for payment of maintenance to his mother, i.e, present

petitioner. Taking notice of the said fact, the present petitioner is given liberty to move the maintenance tribunal under the provisions of Section 5 (8) and Section 11 (2) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

Let the said provisions be extracted as herein below:

“Section 5 - Application for maintenance:

(8) - If, children or relative so ordered fail, without sufficient cause to comply with the order, any such Tribunal may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person for the whole, or any part of each month's allowance for the maintenance and expenses of proceeding, as the case be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made whichever is earlier: Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Tribunal to levy such amount within a period of three months from the date on which it became due.

Section 11- Enforcement of order of maintenance.

(2) - A maintenance order made under this Act shall have the same force and effect as an order passed under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be executed in the manner prescribed for the execution of such order by that Code.”

It is directed that the tribunal upon receiving any application by the present petitioner under the aforesaid provisions of law, shall proceed expeditiously and conclude the proceedings within the period of three months from the date of the present petitioner applying before it for enforcement of the order of maintenance granted in her favour by the Court, which is payable by the present opposite party no.2.

With these directions the case is disposed of.
Connected application, if any, is also disposed of.

Urgent certified website copies of this order, if applied for, be supplied to the parties subject to compliance with all the requisite formalities.

(Rai Chattopadhyay, J.)