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CRR 4507 of 2025

**Sri Robin Kumar Saha
Vs.
Smt. Shruti Jaiswal**

Mr. Sabir Ahmed
Mr. Arkaprava Sen
Mr. Sayantan Das
Ms. Deboleena Mukherjee ... for the petitioner

Mr. Souvik Mitter
Ms. Rajnandini Das
Mr. Karan Bapuli ...for the Opposite party

In this application, the petitioner has assailed the order dated 7th April, 2025 and the subsequent orders passed in M Execution case no. 237 of 2023. By the impugned order, learned court below has restored the aforesaid M Execution case no. 237 of 2023 in its original file after setting aside the previous order dated 5.11.2024 by which the learned court below observed that the entire amount has been paid in connection with the said execution case, and thereby it was dropped on full satisfaction.

Being aggrieved by the aforesaid order, learned counsel for the petitioner has drawn my attention to the order dated 22.12.2023 passed by this court in CRR 4907 of 2023 in which this court observed as follows:

“Learned advocate for the petitioner undertakes that 25% of the arrears amount which has accrued till date would be deposited on 29th December, 2023 in connection with the aforesaid case before the learned Judicial Magistrate (the said deposit would be without any prejudice to the rights and contentions of the petitioner). Once such deposit is made, the learned Magistrate would recall the process issued in connection with the execution cases.

Mr. Chatterjee, learned advocate for the opposite party insists on payment of whole of the arrears. However, learned advocate for the opposite party submits that as similar directions were passed in CRR 1961 of 2023, the

amount of 25% of the arrears be interpreted to mean the period from May, 2022 to December, 2023. If the amount of 25% of the arrears as submitted before this court is deposited, in that case the opposite party would be at liberty to withdraw such amount with an undertaking that same shall be subject to the outcome of the present revisional application.”

Accordingly, learned counsel for the petitioner submits that once the petitioner has deposited 25% of the arrear amount, the execution case is liable to be dropped as the court negated the opposite party/wife's contention that the 25% of the arrear amount as directed to be deposited, is confined to the period only from May, 2022 to December, 2023. Admittedly, the petitioner has deposited 25% of the amount and the opposite party has withdrawn the said amount. Therefore, the court below was not justified in restoring the aforesaid M Execution case no. 237 of 2023 in its original file.

Having considered the submissions made on behalf of both the parties, it appears that the issue involved in CRR 4907 of 2023 is still pending. In the said order dated 22.12.2023, nowhere it has been mentioned by this High Court that the entire amount in connection with the M Execution case no. 237 of 2023 has been paid by the petitioner to the opposite party.

In such circumstances, the question of disposing of the application being M. Ex. Case no. 237/2023 on full satisfaction on the premise that entire amount has been paid, does not arise but it may be that the fate of the execution case is dependent upon the decision that would be passed by this Court in CRR 4907 of 2023. Therefore, the impugned order dated 7.4.2025 by which the court below has restored the M

Execution case no. 237 of 2023 after setting aside his earlier order dated 5.11.2024, does not suffer from any perversity or impropriety and therefore, does not call for interference by this court.

In view of above, the revisional application being CRR 4507 of 2025 stands dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)