



2026:UHC:3710

| SL. No. | Date | Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures | COURT'S OR JUDGE'S ORDERS |
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| | | | <p>C528 No.709 of 2025 <u>Hon'ble Alok Mahra, J.</u></p> <p>Mr. Karmanya Pandey, Advocate for the applicant. Ms. Gurbani Singh, Advocate for the respondent.</p> <p>2. Applicant instituted an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the respondent and his mother, which was registered as Misc. Case No.102 of 2010. Learned IInd Additional Chief Judicial Magistrate, Dehradun, vide judgment and order dated 19.12.2015, allowed the application and granted to the applicant the right of residence along with maintenance of Rs.25,000/- per month. Aggrieved by the aforesaid judgment and order, the respondent preferred Criminal Appeal No.186 of 2018. Learned 5th Additional Sessions Judge, Dehradun, vide judgment and order dated 14.01.2020, partly allowed the appeal and modified the order dated 19.12.2015 to the extent that the amount of maintenance was reduced from ₹25,000/- to ₹20,000/- per month, while the direction regarding the right of residence of the applicant was affirmed. The respondent thereafter challenged the appellate order by filing C482 No.941 of 2021 before this Court. A Coordinate Bench of this Court, at the stage of admission, vide order dated 14.07.2021, stayed the effect and operation of the judgment and order dated 14.01.2020. Subsequently, the applicant moved a modification application in the said petition and vide order dated 19.11.2024, the interim order dated 14.07.2021 was modified to the extent that the applicant was permitted to continue to exercise her right of residence over the property in question. During the pendency of the aforesaid proceedings, the stepsister of the respondent moved an intervention application in C482 No.941 of 2021. While disposing of the intervention application, the Coordinate Bench granted liberty to the</p> |



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| | | | <p>intervener to raise all objections before the Executing Court in the execution proceedings initiated by the applicant for recovery of arrears of maintenance.</p> <p>3. Subsequently, owing to the intervention of family members and well-wishers, efforts for reconciliation were initiated between the applicant and the respondent with a view to restore matrimonial harmony. In furtherance thereof, the applicant moved an application on 03.02.2025 before the Executing Court seeking withdrawal of Criminal Misc. Case No.476 of 2021. However, learned Executing Court, vide impugned order dated 16.04.2025, observed that since this Court had directed consideration of the objections of the intervener, the application for withdrawal would be considered only after adjudication of such objections. Hence, this criminal misc. application.</p> <p>4. Having heard learned counsel for the parties and upon perusal of the record, this Court is of the considered opinion that the impugned order cannot be sustained in the eyes of law. Admittedly, the original proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005 were instituted only against the respondent and his mother. The intervener was neither impleaded as a party in the said proceedings nor was any relief claimed against her. Even in the execution proceedings arising out of the judgment and order passed by the Appellate Court, the intervener was not a judgment-debtor or a necessary party. Once the decree-holder/ applicant herself did not intend to pursue the execution proceedings on account of reconciliation efforts between the spouses, the Executing Court ought to have permitted withdrawal of the execution case. The objections sought to be raised by the intervener could not have eclipsed the right of the applicant to withdraw her own execution proceedings, particularly when no substantive adjudication had ever been made against the intervener in the original proceedings.</p> <p>5. Moreover, if the intervener was genuinely aggrieved by the judgment and order dated 19.12.2015 passed by learned IInd Additional</p> |
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Chief Judicial Magistrate, Dehradun or by the appellate judgment and order dated 14.01.2020 passed by learned 5th Additional Sessions Judge, Dehradun, she was at liberty to avail appropriate legal remedies against the same in accordance with law. Having failed to challenge the said orders, the intervener could not indirectly seek adjudication of her alleged rights in collateral execution proceedings. The scope of execution proceedings is confined to enforcement of the decree/order sought to be executed and the same cannot be converted into an independent forum for determination of rights of a third party who was never a party to the original lis. The Executing Court, therefore, committed manifest illegality in deferring consideration of the withdrawal application on the ground of pendency of objections preferred by the intervener.

6. Accordingly, the criminal misc. application is allowed and the impugned order dated 16.04.2025 passed by the Executing Court is hereby quashed. The application dated 03.02.2025 moved by the applicant seeking withdrawal of Criminal Misc. Case No.476 of 2021 stands allowed. Consequential proceedings, if any, shall stand closed.

(Alok Mahra, J.)

14.05.2026

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