

05.08.2024
(M/L-09)
Ct.-19
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 708 of 2024

Manu Bittar Garai @ Jhuma Bitter Garai
-Vs-
Subhendu Garai

Mr. Mrinal Kani Ghosh,
... For the Petitioner.

The instant application under Article 227 of the Constitution of India is at the instance of the defendant in a suit for declaration, and is directed against the Order No. 16 dated August 31, 2023 passed by the 2nd Court of learned Civil Judge (Junior Division) at Bolpur, District: Birbhum, in the said suit being *Title Suit No. 13 of 2022*.

The learned Trial judge by the order impugned has dismissed an application filed by the petitioner under Order VII Rule 11 of the Code of Civil Procedure for rejection of the plaint of the said suit on the ground that it discloses no cause of action.

The plaintiff is praying a declaration that on March 07, 2020 no marriage was solemnized between him and the defendant at the Layekpur Kali Temple according to Hindu rites and customs.

The plaintiff is alleging that on January 10, 2022, when the police came to his house for effecting service of summons of a criminal case initiated by the petitioner, he for the first time came to learn that the defendant is claiming to be his legally married wife, and has filed the connected suit.

The said fact clearly discloses the cause of action to file the said suit.

The order impugned therefore, does not call for any interference. C.O. 708 of 2024 is thus dismissed without any order as to costs.

Notwithstanding the rejection of the application under Order VII Rule 11 of the Code, the leaner Trial Judge shall frame an issue in the suit regarding maintainability of it.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Biswajit Basu, J.)