

Court No. 6
(265719)

20.02.2025
(AD 25)
(S. Banerjee)

CO 597 of 2025

Sima Nath Mukherjee
Vs.
Gouranga Chandra Nath

Mr. Dulal Dey

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the wife and is directed against an order dated January 18, 2025 passed by the learned Additional District Judge at Nabadwip, Nadia in MAT Suit No. 31 of 2024. By the order impugned the application under Order 7 Rule 11 of the Code of Civil Procedure stood rejected.

Learned advocate appearing for the petitioner submits that the plaint fails to disclose any cause of action. He further submits that as the prayer for divorce was rejected in the earlier suit and since then the parties are living separately, no fresh cause of action arose and, therefore, the provision of Section 19(iii) of the Hindu Marriage Act would not be applicable in the case in hand.

It is not in dispute that a decree of judicial separation was passed on February 28, 2013 by the learned Additional District Judge, Fast Track 2nd

Court, Krishnagar, Nadia. Thereafter the opposite party herein filed the present suit by invoking the provisions of Section 13(1A)(i) of the Hindu Marriage Act which states that either party to a marriage whether solemnized before or after the commencement of the Act may also present the petition for the dissolution of marriage by a decree of divorce on the ground that there has been no resumption of cohabitation by and between the parties to the marriage for a period of one year or upwards after the passing of a decree for judicial separation in a proceeding to which they were parties.

After going through the plaint this Court finds that the parties lastly resided together at Nabadwip and it has been recorded in the impugned order that in course of hearing the petitioner herein, who were present in person in Court, also admitted that after the marriage they resided jointly at the matrimonial home at Nabadwip for the last time.

The learned trial Judge noted that when the earlier suit was filed, there was no Court at the level of the District Judge at Nadia due to which the same was taken up at Krishnagar. Learned trial Judge after considering the provisions of Section 19(iii) of the Hindu Marriage Act returned a finding that the Court has jurisdiction to decide the said suit. Cogent

reasons have been assigned by the learned trial Judge for rejecting the application under Order 7 Rule 11 of the Code of Civil Procedure.

In view thereof, this Court is not inclined to interfere with the order impugned.

Accordingly, CO 597 of 2025 stands dismissed without, however, any order as to costs.

(Hiranmay Bhattacharyya, J.)