

Item No. 3
17.12.2025
Court. No. 6
GB

C.O. 3992 of 2025

Smt. Shilpi Banerjee (Sarkar)
Vs.
Sri Soumak Sarkar

*Mr. Jayak Gupta,
Mr. Uttam Kumar Shaw*

...for the Petitioner.

*Mr. S. Das,
Mr. S.K. Bhattacharyya*

...for the Opposite Party .

1. The petitioner has challenged an order dated August 6, 2025, passed by the learned Additional District Judge, Gangarampur at Buniadpur, Dakshin Dinajpur in Matrimonial Suit No.77 of 2024.
2. Matrimonial Suit No.77 of 2024 was filed for custody of the child under Section 38 of the Special Marriage Act. The defendant prayed for rejection of the plaint on the ground that an independent suit under Section 38 of the Special Marriage Act was not maintainable and the suit was barred by law.
3. The learned court, upon holding that the suit could not proceed, had incorporated the said suit in the already pending matrimonial suit, i.e., Matrimonial Suit No.222 of 2024. The learned court has proceeded illegally and with material irregularity in doing so.
4. The opposite party/husband is at liberty to file a proper application, as may be permitted in law. The order impugned is set aside. The plaint in connection with Matrimonial Suit No.77 of 2024 stands rejected

by allowing the application under Order 7 Rule 11 of the Code of Civil Procedure.

5. Accordingly, the application is disposed of.
6. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)