

19.06.2025
Ct. 1
D/L 2
ab

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE
C.O. 76 of 2025**

**Rinku Dutta
-Vs-
Debraj Dutta**

Mr. Satarudriya Mukherjee,
Ms. Tannu Agarwal

... for the petitioner

This is an application filed by the wife/petitioner assailing the order dated 5th April, 2025 passed in Matrimonial Suit being Mat Suit No. 229 of 2024 by the learned Additional District & Sessions Judge, 3rd Court at Jalpaiguri rejecting the petitioner's application filed under Order VII Rule 11 of the Code of Civil Procedure, 1908 (in short 'CPC').

On a perusal of the plaint filed by the opposite party/husband in Mat Suit No. 229 of 2024 and the application filed by the wife/petitioner under the provisions of Order VII Rule 11 of CPC, it is found that the suit for dissolution of marriage had been filed on two grounds- Desertion and Cruelty. The main objection of the petitioner is that the ground of desertion is not made out in the plaint in view of the relevant provisions of law which are required to be fulfilled to plead desertion. The learned Trial Judge considered the application under Order VII Rule 11 of CPC filed by the petitioner and has held that the plaint cannot be rejected and the suit cannot be dismissed because the other ground i.e., cruelty is pleaded. It is also the finding of the learned Trial Court that whether the ground of cruelty can be proved or not, is not a

concern at the stage of hearing of an application under Order VII Rule 11 of CPC. So far as the ground for desertion is concerned, it will be open to the petitioner being the defendant in the suit to plead and lay necessary evidence to rebut the charge of desertion while she will be dealing with the charge of cruelty as alleged against her. The matter, therefore, requires to be heard on taking evidence of both sides.

I do not find any infirmity in the order impugned. It is well-settled provisions of law that a plaint cannot be partially rejected since the ground of cruelty is already there which requires to be gone into by taking evidence even if the ground of desertion is not available to the opposite party/plaintiff.

In the aforesaid facts and circumstances, the revisional application being C.O. 76 of 2025 is dismissed, however, without any order as to costs.

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

(Arindam Mukherjee, J.)