

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Biswaroop Chowdhury

FAT No. 50 of 2026

Dheeraj
-vs-
Abhilasha Singh

For the appellant : Mr. Siddhartha Lahiri,
Ms. Aritra Chakraborty,
Mr. Debraj Duttaa,
Ms. Nivedita Mullick, Advs.

For the respondent : Ms. Mayuri Ghosh,
Ms. Poulami Bhowmick,
Mrs. Suparna Roy Das, Advs.

Heard on : May 12, 2026.

Judgment on : May 12, 2026.

Sabyasachi Bhattacharyya, J.:

1. Affidavit-of-service filed today be kept on record.
2. In view of the short point involved, the appeal itself is taken up for hearing by dispensing with all other formalities.

3. The plaint of a divorce suit has been rejected by the impugned judgment and deemed decree in a cryptic manner.

4. Learned counsel for the appellant argues that despite the plaint having disclosed elaborate cause of action for the divorce suit, the plaint was rejected by the impugned judgment on the ground that no cause of action was disclosed.

5. Learned counsel appearing for the respondent submits that the plaint itself was affirmed on the 23rd day of January, 2025 whereas in paragraph no. 30 of the plaint, it has been alleged that on the self-same date, the petitioner-husband left the matrimonial house.

6. It is further argued by the respondent-wife that after residing for long twelve years together, all on a sudden the suit has been filed for divorce. It is further alleged that the plaint is a “child of clever drafting”.

7. However, we are unable to agree with the contentions and findings of either the respondent or the learned trial Judge.

8. Insofar as the averment made in paragraph no. 30 of the plaint is concerned, it has been stated that the petitioner-husband, being unable to take the torture further and in search of mental

well- being, left the house on or about January 23, 2024 “along with filing this instant petition.”

9. Although somewhat unusual, it is not absolutely in the realm of the absurd that the matrimonial suit is filed on the self-same date on which the husband left the matrimonial house. Even otherwise, the veracity of such allegation has to be canvassed and opposed on merits in the suit by way of evidence and is not the subject matter of consideration at the inchoate stage of hearing an application under Order VII Rule 11 of the Code of Civil Procedure.

10. The learned trial Judge proceeded on the premise that there is no allegation of the respondent deserting the petitioner but on the contrary it is admitted that the petitioner deserted the respondent.

11. However, as recorded above, the context of leaving the matrimonial house by the petitioner-husband, as per the plaint, is that he was unable to take any further the torture meted out by the respondent, which sufficiently discloses a cause of action for maintaining a divorce suit.

12. The learned trial Judge further observed that several instances of mental torture have been stated and mostly derogatory remarks are what have been alleged to be torture.

13. The learned trial Judge acted completely *de hors* his jurisdiction in adjudicating on the merits of the veracity of such allegations at the outset by totally overlooking that there may be several instances where derogatory remarks, if consistently made, may tantamount to acts of cruelty justifying the severance of the matrimonial tie.

14. Be that as it may, what we intend to convey is that the learned trial Judge patently erred in law in deciding the merits of the cause of action disclosed in the plaint on the pretext that no cause of action was disclosed.

15. On a thorough reading of the plaint in its entirety, we are of the considered opinion that sufficient cause of action to maintain a divorce suit has been disclosed in the plaint and thus, the learned trial Judge erred in law in rejecting the plaint on the premise that no cause of action was disclosed.

16. Accordingly, FAT No. 50 of 2026 is allowed on contest, thereby setting aside the impugned judgment and deemed decree dated January 22, 2026 passed by the learned Additional District Judge, Seventh Court at Barasat, District – North 24 Parganas in Matrimonial Suit No.189 of 2025.

17. The learned trial Judge shall now proceed to decide the suit on its own merits upon giving adequate opportunity to the parties to adduce evidence and advance their arguments (insofar as they are entitled to in law), on a full-fledged trial on evidence, in accordance with law.

18. CAN 1 of 2026 is also disposed of consequentially.

19. It is made clear that nothing in the above judgment shall prevent the parties from exploring the possibility of resolution of the dispute between the parties by way of mediation.

20. There will be no order as to costs.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Biswaroop Chowdhury, J.)