IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.30634 of 2026

CNR No. ODHC010660022026

Lipsita Sahu .... ***Petitioner***

Mr. Mahadev Sahu, Advocate

-versus-

Nitin Kumar Nayak .... ***Opposite Party***

CORAM: JUSTICE SANJAY KUMAR MISHRA

ORDER

Order No. **27.10.2026**

02. This matter is taken up through hybrid mode.

2. The present writ petition has been preferred challenging the order dated 14.08.2026 passed by the learned Judge, Family Court, Balangir in C.P. (Mat.) No.14 of 2024. A further prayer has been made to direct the learned Court below to permit the Petitioner to adduce rebuttal evidence, confined to the defence and evidence led by the Opposite Party concerning his specific claim and defence, as mentioned in his written statement.

3. As is revealed from the record, based on the pleadings of the parties, the following issues were framed by the learned Court below:

*"**ISSUES***

(i) Whether the suit is maintainable in its present form?

(ii) Whether the Petitioner has got any cause of action to file the suit?

(iii) *Whether the marriage solemnized between the petitioner and respondent on 13.01.2023 can be declared to be void and can be annulled by a decree of nullity?*

(iv) *To what other relief/reliefs the petitioner is entitled for?"*

4. As is further revealed from the pleadings, the Petitioner had filed an application seeking recasting of an additional issue to the effect as to whether the Respondent is legally married to the Petitioner, as claimed by him. However, the said application was rejected vide order dated 08.09.2025 with an observation that, while answering Issue No.3, it would be inevitable for the Court to determine whether the Respondent is legally married to the Petitioner, since, in the absence of a marriage, the question of declaring the same null and void would not arise. Accordingly, the application for framing an additional issue stood rejected.

5. Further, it is revealed from the impugned order dated 14.08.2026 that the Petitioner's prayer under Order XVIII Rule 3 read with Section 151 of the CPC was rejected on the ground that the Petitioner, in his petition, had nowhere specified the particular issue which was required to be proved by the Respondent. Rather, the Petitioner had approached the learned Court below seeking a decree declaring her marriage with the Respondent to be null and void and cancellation of the marriage certificate issued in respect thereof.

6. That apart, it was observed that the Petitioner had earlier also filed an application under Order XVII Rule 1 of the CPC, which was rejected by the learned Court below

vide order dated 16.09.2025, and the said order continued to hold the field. It was further observed in the impugned order that, as a general rule, the party setting up a claim is required to prove the same, the burden of proof being cast upon such party. In the present case, the burden rests upon the Petitioner to prove her assertions. Accordingly, the application was rejected.

7. After hearing, learned Counsel for the Petitioner at length and going through the pleadings and documents on record, this Court is of the view that no infirmity can be found in the impugned order dated 14.08.2026. The burden of proving the averments made in the plaint and substantiating the prayer for a decree of nullity declaring the marriage between the Petitioner and the Respondent to be null and void, as well as for cancellation of the marriage certificate issued in respect thereof, rests upon the Petitioner.

8. Hence, the writ petition, being devoid of any merit, stands dismissed.

9. Since the writ petition stands dismissed at the stage of admission, Office is directed to communicate a copy of this order to the learned Court below for its information and record.

(S.K. MISHRA)
JUDGE

Anisha

Signature Not Verified
Digitally Signed
Signed by: ANISHA NANDA
Designation: Jr. Stenographer
Reason: Authentication
Location: OHC, CUTTACK
Date: 28-Oct-2026 14:20:18