

In the Court of the Additional District Judge, 2nd Court, Burdwan

Mat Suit – 63 of 2023

CNR No WBBD01-000386-2023

Present : Sri Bibhas Chatterjee
Additional District Judge,
2nd Court, Burdwan-in-Charge.

Champak ChattopadhyayPetitioner-husband

Vs.

Boby GuinRespondent-wife

Order No. 22.

Dated. 20.06.2026

This day is fixed for ex parte argument and for passing order.

The petitioner namely Champak Chattopadhyay is present by filing his
hazira.

Heard Ld. Advocate for the petitioner.

The case is taken up for passing order.

This is an application u/s 9 of Hindu Marriage Act,1955 by the
petitioner-husband praying for decree of restitution of conjugal rights against
the respondent-wife.

Be it mentioned here that hereinafter, the petitioner-husband will be
referred as “Petitioner” and the respondent-wife will be mentioned-referred as
“Respondent” only.

Brief case of the petitioner

The petitioner’s case, in brief, is that the marriage between the parties
was solemnized on 15.08.2018 according to Hindu Rites and Customs and
subsequently registered on 10.01.2019 under the provision of the Hindu
Marriage Act, 1955. After marriage, the parties resided together as husband
and wife and their marriage was duly consummated.

According to the petitioner, after a few days of marriage, the respondent started behaving not properly with the petitioner and his family members despite sincere efforts on the part of the petitioner and his family members to maintain cordial matrimonial relation, the respondent allegedly continued it in different attitude.

It further alleged that on 17.10.2022 the respondent voluntarily left the matrimonial home taking her belongings and started residing separately. Thereafter, the petitioner and his family members made repeated requests to the respondent to return to her matrimonial home and resumed conjugal life. However, the respondent refused to do so. Having no other alternative, the petitioner instituted the present suit seeking restitution of conjugal rights.

Proceeding before this Court

Record reveals that summons was duly served upon the respondent. Respondent entered appearance before this suit but failed to file written statement despite repeated opportunities granted by the court. Even after grant of last chance, the respondent neither filed written statement nor took any effective steps. Subsequently by order no. 15, dated 24.09.2025, the suit was directed to proceed ex parte against the respondent.

In support of his case, the petitioner examined himself as PW1 and tendered his evidence on affidavit. He also produced the marriage registration certificate which was admitted into evidence and marked as Exbt.1. No other witness was examined.

Points for determination

- 1) Whether there exists a valid marital relationship between the parties ?
- 2) Whether the respondent has withdrawn from the society of the petitioner?
- 3) Whether such withdrawal was without reasonable excuse?
- 4) Whether the petitioner is entitled to a decree for restitution of conjugal rights u/s 9 of Hindu Marriage Act, 1955?

Decision and Findings

Point No. 1 :- The testimony of PW1 coupled with exhibit 1 namely the marriage registration certificate, established that the marriage between the parties was solemnized according to Hindu Rites and Customs and subsequently registered. There is no material on record to doubt the existence of a valid marital relationship between the parties. Accordingly, point no.1 is decided in favour of the petitioner.

Point No. 2 and 3 :- Section 9 of the Hindu Marriage Act provides that when either spouse has withdrawn from society of the other without reasonable excuse, the aggrieved party may seek restitution of conjugal right.

The evidence of PW1 reveals that the respondent left her matrimonial home on 17.10.2022 and started residing separately. Petitioner has further stated that repeated efforts were made by him and his family members to persuade the respondent to return and resume matrimonial life but she refused to do so.

The respondent, despite entering appearance, chose not to contest the proceeding and did not adduce any evidence. Consequently, there is no material before the court indicating any reasonable excuse on the part of the

respondent for withdrawing from the society of the petitioner.

The testimony of PW1 has remained unchallenged and unrebutted. There is nothing on record to discredit his evidence in absence of any rebuttal, this court finds no reason to disbelieve the testimony of P.W1. Accordingly, this court holds that the respondent has withdrawn from the society of the petitioner and that such withdrawal is without reasonable cause. Hence, point no. 2 and 3 are, therefore, decided in favour of the petitioner.

Point No. 4 :- In view of the findings recorded above, this court has satisfied that the petitioner has successfully established the ingredients required u/s 9 of the Hindu Marriage Act, 1955. the petitioner has proved the existence of a valid marriage, withdrawal of the respondent from his society and the absence of any reasonable excuse for such withdrawal, therefore, the petitioner is entitled to the relief as sought for.

Hence, It is

ORDERED

that the instant suit being no. 63 of 2023 be and the same is decreed ex parte in favour of the petitioner - husband u/s 9 of the Hindu Marriage Act, 1955.

The respondent – wife is directed to resume cohabitation and restore conjugal rights within 60 days from the date of passing of this order with the petitioner – husband.

The petitioner shall be at liberty to execute the decree in accordance with the law in the event of non-compliance u/o-21, Rule-32 of Code of Civil Procedure.

Draw of the decree accordingly.

Petitioner-husband is directed to send a copy of this order in favour of the respondent-wife at his own cost.

Let a copy of this order be handed over to the petitioner free of cost.

D/c by me

Sd/-

A.D.J. I/C

Sd/-

Additional District Judge
2nd Court, Burdwan-in-Charge