

MATRIMONIAL SUIT NO. 241 of 2023.
(CNR No. WBDD01-002070-2023)
Sri Ajay Deb vs. Smt. Shila Sarkar @ Deb.

Order No. 19, dated 17-06-2026.

Today is fixed for hearing exparte argument.

The petitioner Sri Ajay Deb files hazira.

None moves for the respondent on repeated call. No steps taken by the respondent.

Ld Advocate for the petitioner/husband extends exparte argument. Ld Advocate also filed certified copy of the orders passed in Matrimonial Suit No.57 of 2022 [filed by the respondent/wife seeking divorce] which was dismissed for non-prosecution. Photocopy of the birth certificate of the daughter of the parties.

Heard.

The case is now taken up for passing exparte order.

Perused the application, the ocular and documentary evidence on record.

Considered.

The present petitioner/husband filed the instant suit against the respondent / wife Smt Shila Sarkar @ Deb, praying for a decree of divorce under section 13 of the Hindu Marriage Act, 1955, on the ground of cruelty and desertion.

The fact of the case, in short, is that the marriage of the petitioner/husband and the respondent /wife was carried out as per Hindu rites and customs at the father's house of the respondent/wife on 21-02-2015. The marriage was duly consummated and a girl child, namely, Anwesa Deb was born out of the said wedlock on 06.07.2016 and is seven years old. It is alleged that since the early days of their marriage, family tension arose as the respondent/wife exhibited unruly behaviour towards the petitioner/husband for his low income and insisted the petitioner/husband to go out of state for job. It is contended that the petitioner/husband being an unskilled labour carries out work whenever he gets the same and even goes out of the state in search of work. The petitioner/husband tried to satisfy the needs of the respondent/wife by giving her gifts within his economic means but the respondent/wife was never satisfied with the same. Whenever the petitioner/husband returned home from outside State frequently, he was abused by the respondent/wife by saying that a husband having low income has no right to stay with his wife. The respondent/wife always cursed her destiny. It was noticed by the petitioner's father that whenever the petitioner/husband stayed out of State, the respondent/wife used to stay away

from home for three to four days altogether without informing anything and also did not disclose her whereabouts on return. The petitioner/husband came to know all these from his father and he instructed his father to enquire whether the respondent/wife is going to her paternal home or relative home or not. Accordingly, his father made necessary enquiry and came to learn that the respondent/wife neither visited her paternal home nor her any relative's home. It is alleged that the respondent/wife was also indulged in talking over phone in the late nights. The petitioner/husband informed these things to her mother-in-law, but she too failed to solve the problems. Such behaviour left the petitioner/husband in pain and agony. It is further alleged that on 19.07.2019 the respondent/wife left her matrimonial home along with all her belongings without any rhyme and reason. She also took the minor child with her. At the relevant point of time the petitioner/husband was out of State for his job and so tried to contact his wife over phone but he failed. Having no other alternative the petitioner/husband returned on 26.07.2019 and went to the respondent's paternal home. The Respondent/wife outrightly rejected the request of the petitioner/husband to return back and abused the petitioner/husband and expressed that she does not intend to go back to such poor family. The Petitioner/husband was threatened with dire consequences and was ousted from the paternal house of the respondent/wife. On 27.07.2019, the petitioner/husband sent his mother and relatives to fetch the respondent/wife back home. But they were too treated badly by the respondent/wife and her parents and disclosed that they intend to give the respondent/wife another marriage with one Mintu Deb. The petitioner/husband again visited the house of the respondent/wife on 15.08.2019; but this time too the efforts did not bring any fruitful result. Since then both the parties have no contact with each other.

It is further stated that the respondent/wife had filed a divorce suit being number Matrimonial Suit 57 of 2022 against this petitioner/husband under section 13 of Hindu Marriage Act, but as all information furnished there was erroneous she did

not proceed with the suit and the same was dismissed for non-prosecution. It is contended that the respondent/wife deserted the petitioner/husband since 19.07.2019.

The petitioner/husband contended that the cause of action for the suit firstly arose on the date of their marriage and the same continued till date. The petitioner/husband also contended that the last place of residence of the couple is

Mayamari, Chakvrigu under Police Station-Balurghat and within the jurisdiction of this court. Thus, the petitioner preferred the present suit seeking relief in the form of divorce on the ground of cruelty and desertion.

Notice in c/w the suit was duly served upon the respondent, who did not appear in spite of receiving the notice and abstained from contesting the suit. Thus the suit proceeded ex parte vide order no.08 dated 04.12.2024.

In support of his case, the petitioner examined himself as PW1. The petitioner produced his Aadhar Card [marked exhibit 1]. As PW1 the petitioner/husband elaborated the facts of his case in his written examination-in-chief. The father of the petitioner, namely, Sri Dilip Deb deposed as PW3. The said witness corroborated the version of PW1. One Sri Narayan Chakraborty deposed as PW3. He narrated in his examination-in-chief that he was the purohit of the marriage solemnized between the parties. He duly corroborated the factum of marriage as stated by PW1.

Having considered the unchallenged testimony of the witnesses and the document on record, I find that, the petitioner/husband has duly corroborated his case by way of proving his marriage and the plight of his matrimonial life. There is no such contradiction present on record so as to disbelieve the narration of the petitioner/husband and his witnesses.

In view of the above, I am of the considered opinion, that the marriage between the parties has been visited by disharmony and the same should be dissolved under the provisions of Section 13 of the Hindu Marriage Act, 1955.

As a result, the suit succeeds.
C.F paid is correct.
Hence,

ordered

that the Matrimonial Suit being number 241 of 2023 be and the same is decreed ex-parte against the respondent/wife without costs.

The marriage subsisting between the parties namely Sri Ajoy Deb and Smt. Shila Sarkar @ Deb solemnized on 21-02-2015 under the Hindu rites and customs as stipulated under Hindu Marriage Act, 1955, is hereby dissolved by a decree of divorce.

Dictated & corrected by me

(J.O WB 00836)
Additional District Judge,
2nd Court ,Balurghat
Dakshin Dinajpur

(J.O WB 00836)
Additional District Judge,
2^{ndh} Court, Balurghat
Dakshin Dinajpur