

Mat Suit 123/22 (CIS Reg No. 124/22)

CNR No. WBDJ010007522022

JO Code - WB00604

Order no. 14

29/04/23

Today is fixed for passing order in respect of the petition filed u/o. 7 R 11 CPC.

Both parties filed lawyer's hazira.

Record is taken up as per previous order.

In this case respondent Sunita Thapa filed an application u/o. 7 R 11 CPC on 16/02/23 and there by prayed for an order to reject the plaint on the ground that plaint does not disclose any cause of action and that petitioner did not make any statement about the cruelty allegedly done by the respondent to the petitioner.

Ld. Advocate appearing on behalf of respondent submitted that as on plain reading of the plaint it is revealed that it does not disclose any cause of action so plaint should be rejected only on that ground. Further Ld. Advocate submitted that in the plaint plaintiff/petitioner did not disclose any single instance about the causing of cruelty by the respondent to the petitioner. It is pointed out by Ld. Advocate that in the plaint petitioner even did not state specifically the date of cause of action rather only mention the year of cause of action. Thus, Ld. Advocate prayed for rejection of the plaint.

On the other hand Ld. Advocate for the petitioner submitted that in the plaint petitioner specifically stated about the cause of action and also stated about respondent/wife subjected the petitioner with cruelty. Ld. Advocate submitted that the element which is required to file a suit, are present in the plaint and the petition filed by the respondent for rejection of the plaint has no basis at all and that should be rejected.

I have considered the submission made by both sides. I have gone through the plaint of the plaintiff/petitioner. The main contention of the respondent that in the plaint petitioner did not disclose the cause of action for which suit has been filed and also did not disclose the instances about the cruelty. While I go through the plaint I find that elements which are required to file a suit before the Court of law all are present in the plaint. Plaint should not be the encyclopedia. During evidence plaintiff/petitioner can prove the instances of cruelty as well as specific date of cause of action.

Accordingly considering this aspect, I find that the petition filed by the respondent u/o. 7 R 11 CPC is vexatious one and that should be rejected. Then the petition filed by respondent on 16/02/23 u/o. 7 R 11 CPC r/w. Sec. 151 CPC is considered and rejected.

Fix 26/05/23 for filing WS by the respondent.

D & C by me,
Sd/-
ADJ, 3rd Court, Dlg

Sd/-
Shri Sanjay Mukhopadhyay
Addl District & Sessions Judge, 3rd Court,
Darjeeling