

Mat Suit. No. 1127 of 2021
CNR No. WBHW01-004547-2021
Present : Sri Plaban Mukherjee (J.O Code : WB01427)
Order No. 25,
Dated : 01.11.2025,

Today, the date is fixed for hearing of the petition dated 28.09.2022.

Petitioner files hazira through Ld. Advocate.

Respondent files hazira through Ld. Advocate.

Now the case record is taken up for hearing of the two petitions – one petition dated 28.09.2022, filed the respondent and the other petition under Order VI Rule 17 read with Section 151 of the C.P.C, filed by the petitioner.

Ld. Advocate for the respondent submitted that the marriage of the parties to this suit was solemnized as per the relevant provisions of Special Marriage Act, 1954, but the petitioner has instituted this suit under Section 13 of the Hindu Marriage Act, 1955 and for that reason, this suit is liable to be dismissed.

Ld. Advocate representing the petitioner submits that mere quoting of wrong Section and Act does not lead to dismissal of any suit and he has already filed an application under Order VI Rule 17 read with Section 151 of the C.P.C praying for necessary amendments to incorporate proper Section in the petition.

Heard both the petitions from both sides in full. Considered.

The case record reveals that the petitioner files his petition under Order VI Rule 17 read with Section 151 of the C.P.C after filing of the petition by the respondent in this regard. It further appears that the petitioner has instituted this suit under the provision of Hindu Marriage Act instead of the corresponding relevant provision of the Special Marriage Act praying for divorce.

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[Continuing order dated 01.11.2025]

After perusing the petitions and the materials on record, I am of the considered view that such formal defect should not be counted to defeat the substantial right of the petitioner of this suit.

Hence, it is

ORDERED

that the petition dated 28.09.2022, filed by the respondent is hereby rejected on contest, but without any order as to cost.

Thus, the petition is disposed of.

Consequently, the petition under Order VI Rule 17 read with Section 151 of the C.P.C, filed by the petitioner is hereby allowed on contest, but without any order as to cost.

Thus, the petition under Order VI Rule 17 read with Section 151 of the C.P.C, filed by the petitioner is disposed of.

The petitioner is directed to file the amended plaint by the next date.

Hence, the petition dt 11.08.2025 is disposed of accordingly.

Fix 15/11/2025 for filing of the amended plaint by the petitioner.

Dictated & Corrected by me.

A.D.J, 1st Court, Howrah.

Additional District Judge,
1st Court, Howrah.