

MAT SUIT 1215 of 2025

Order no 05 dated 13-5-2026

Today is fixed for hearing the petition under Order XII rule 6 CPC, w/o if any was to be filed in the meantime.

Ld advocate for the petitioner and Ld Advocate for the respondent are present.

Ld advocate for the petitioner submitted that the petitioner has filed the instant suit under section 25 of the Special Marriage Act praying for annulment of the marriage by a decree of nullity and further submitted that the respondent had appeared and had admitted the facts as asserted. Ld Advocate for the respondent submitted that the ground on which the relief has been prayed for is admitted by the respondent and the respondent has no objection if the reliefs as prayed for by the petitioner is granted.

Considered the submissions of the Ld Advocates and the materials on record.

On perusal of the plaint it appears that the petitioner has stated that the petitioner and the respondent got married by way of registration under the Special Marriage Act but the respondent never cohabitated with him and for which the marriage was never consummated. With such assertion of non consummation of marriage due to wilful refusal by the respondent, the petitioner has filed the instantr suit. The respondent appeared and had filed a written statement admitting the factum of non consummation. The respondent wife also filed an application seeking a judgment on admission.

It appears that the parties would be the best persons themselves to assert upon the assertion and denial of non consummation of marriage especially where no child has taken birth from such marriage. In the instant case, the petitioner has asserted non consummation in the petition annexed to affidavit while the respondent has also admitted such on affidavit. The admission appears to be clear and unequivocal. Furthermore, the Hon'ble Supreme Court of India in the case of **Rajiv Ghosh Versus Satya Naryan Jaiswal** and cited in **2025 LiveLaw (SC) 415** was pleased to hold that a judgment on admission can be passed at any stage and on the pleadings alone. The Hon'ble Apex Court was pleased to clarify the legal position under Order XII Rule 6 of the Civil Procedure Code (CPC), holding that a 'judgment on admission' may be delivered at any stage of the suit, relying on oral or written admissions even those made outside the pleadings and without the need for a separate application to invoke the provision.

Hence, even though there was no requirement for a separate application, I find it proper to allow such as filed and hence, it is hereby;

ORDERED

that the marriage dated 29-7-2025 as held between the petiytioner Adhish Anand Poddar and the respondent Mausam Kumari stands annulled and is hereby declared as a nullity from the date of the instant order.

The petition seeking a judgment on admission stands allowed accordingly.

Additional District Judge
2nd Court,Howrah
In-Charge

