

**In the Court of Additional District Judge,
Fast Track 2nd Court, Bongaon, North 24 Parganas**

Mat Suit No. 293 of 2025
CNR : WBNP06 000852-2025

Smt. Mousumi Biswas Maitra – Vs – Sri Raju Biswas

Section 13 of Hindu Marriage Act.

Present : Sri Mrityunjay Karmakar, (WBJO 00917)

Order No. 7, dated 16-03-2026

Today is fixed for appearance of the petitioner and for hearing of exparte of this suit. The petitioner is present and file hazira along with her Ld. Lawyer. The petitioner has filed her examination in chief on Affidavit.

The record is taken up for hearing.

The petitioner deposed as **PW-1** and her mother Gouri Maitra deposed as **PW-2**. The petitioner has filed the Xerox copy of Aadher card and photocopy of **two (2)** birth certificates of child namely **Rajesh Biswas** and **Diya Biswas** age about 16 years and 11 years and they are now living with their mother.

Now the record is taken up for passing of Order of this Suit on the basis of the Petition, dated 29/04/2025, u/s. 13 of the Hindu Marriage Act, 1955 filed by the Petitioner.

The Petitioner's case in brief is that the Petitioner got married with the Respondent on **14-09-2009** as per Hindu Rites and Customs at her paternal house situated at Village –Bayspur P.O. Akaipur, P.S. - Gopalnagar, in the District of North 24 parganas. After marriage the petitioner had accompanied with the respondent at his matrimonial house situated at Village – Kujarbagi P.O – Gadpukuria, P.S. - Bagdah, District North 24 Parganas, and resided there as husband and wife and their marriage was duly consummated and out of their wedlock **two (2)** child was born namely **Rajesh Biswas** and **Diya Biswas** age about 16 years and 11 years and they are living with their mother.

After filing of this suit, notice of this suit was sent to the Respondent at his residential house through Post at Village Kujarbagi P.O – Gadpukuria, P.S. - Bagdah, District North 24 Parganas. The respondent received the said notice on 05/06/2025, but respondent did not appear in the court. Notice was also refused by the mother of respondent on 24/06/2025 when it was sent through court. So, the court decided to proceed with the hearing of the suit *exparte* vide order dated 31/01/2026.

On the date of Evidence/ hearing, the Petitioner has been examined in full as **PW-1** and was discharged. The **P.W.- 2** her **mother Gouri Maitra**, has been examined in full and discharged and the same remains unchallenged. Petitioner has filed Xerox copy of Aadhaar Card and photo copy of **two (2)** birth certificates of child namely **Rajesh Biswas and Diya Biswas** age about 16 years and 11 years and they are living with their mother and both the photocopy of birth certificate has been marked as **Exbt 1 Collectively** after tally with original birth certificate produced by the petitioner. Thereafter the original birth certificate was returned from the court then and there.

Upon perusal of the contents made out in the application by the applicant and her corroborative evidence remain uncontroverted throughout the entire trial. Abstention of the respondent / husband from appearing before the Court to deny the allegations and prompts this Court to infer that the respondent/ husband has no objection if the petitioner has got the decree of divorce by the competent court and as such his attitude shows that he would not be prejudiced in any way if the petitioner would be entitled to get the decree of divorce.

Therefore, this court is inclined to pass an order in favour of the petitioner/wife Mousumi Biswas Maitra. It appears from her deposition that she was married with the respondent on 14/09/2009 as per Hindu rites and customs at her father's house. She deposed that the respondent married for the second time with another lady namely Krishna. She deposed that her husband used to torture her under the influence of alcohol. He doesn't take care of her and her children. They tried to save the marriage but OP didn't listen. She deposed that she was mentally tortured by her husband. Ld. Advocate for the Petitioner

submitted that birth certificate copy is the proof of their valid marriage. Apart from birth certificate of their marriage they have no other document of marriage since their marriage was not registered. So, he prayed for divorce.

PW-2 her mother also confirms about illicit relationship of the OP and another lady. She was driven out from her matrimonial home at about 3. 5 years ago and now she is living with her one minor son and one minor daughter. She was tortured by her husband and OP used to consume alcohol and beat her daughter. Now she is living at her home with her minor children. OP doesn't take care of her daughter and her children.

No evidence has come forward wherein it would appear that the respondent has challenged the evidence of the petitioner as well as the contents of the petition. None appears before this court to contest this case against the petitioner. As such the respondent did not appear before this Court to rebut the statement of the petitioner in this case in spite of getting several opportunities.

As per section 13 of the Hindu Marriage Act, the decree of divorce can be passed on the basis of above stated ground and it is crystal clear that as per the provision of Sec. 13 of Hindu Marriage Act 1955, the petitioner is hereby entitled to get the decree of divorce as prayed for. I think there is no reason to disbelieve the unchallenged testimony on behalf of the Petitioner when it appears from the said evidence that the Petitioner has duly corroborated his case.

It is now proved from the deposition of PW-1 and PW-2 that the petitioner was subjected to tremendous mental torture and cruelty and her husband had illicit relationship with another lady and it is not possible for any self-respected women to live with the OP having illicit affairs. Marriage has been prima facilely proved. Birth during marriage prima facilely proofs the legitimacy of the child. The name of the parents in mentioned as husband and wife in the birth certificate copy filed in case record marked as Exbt. P-1 collectively.

Considering all aspects, I think that the petitioner has succeeded to substantiate her case by corroboration and there is no legal impediment before the Court to award a decree of divorce and to declare the marriage, dated **14-09-2009** in between the Petitioner and the Respondent stands dissolved.

Therefore, this case succeeds.

C.F. Paid is correct.

Hence, it is,

ORDERED

That the **Matrimonial Suit no. 293 of 2025** be and the same is decreed on ex-parte in favour of the petitioner; the petitioner is awarded with a decree of divorce in her favour and against the respondent /husband.

The marital relationship in between the petitioner **Smt. Mousumi Biswas Maitra** and the respondent **Sri Raju Biswas** which had been solemnized on **14-09-2009** is hereby dissolved by this decree of divorce, in terms of the provisions, provided under **Section 13 of the Hindu Marriage Act, 1955** with immediate effect.

No order as to costs.

Let a copy of this order be supplied to the Petitioner on free of costs if so applied.

Typed & corrected by me.

A.D.J, F.T.C.-II,
Bongaon, North 24 Parganas.

A.D.J, F.T.C.-II,
Bongaon, North 24 Parganas.