

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

**Mat Suit No. 717 of 2024
CNR : WBNP06 002439-2024**

Smt. Shampa Sarkar Biswas – Vs – Sri Biswajit Sarkar

Section 13 of Hindu Marriage Act.

Present : Sri Mrityunjay Karmakar, (WBJO 00917)

Order No. 13, dated 12-03-2026

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 Saraswati Biswas deposed as **PW-2**. The petitioner has filed the Xerox copy of Aadhar card and one (1) birth certificate of female child namely Barsha Sarkar age about 10 years and she is living with her mother.

Now the record is taken up for passing of Order of this Suit on the basis of the Petition, dated 20-11-2024, 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 **09-05-2013** as per Hindu Rites and Customs at her paternal house situated at Village – **Ambarpur** P.O. Murighata P.S. -**Gopalnagar**, in the District of North 24 parganas. After marriage the petitioner had accompanied with the respondent at his in laws house situated at Village – **Kaliani** P.O – **Puratan Bongaon**, P.S. - Petrapole, District North 24 Parganas, and resided there as husband and wife and their marriage was duly consummated and out of their wedlock one female child namely Barsha Sarkar, age about 10 years was born and she is now living with her mother.

After filing of this suit, notice of this suit was sent to the Respondent at his residential house through Police Station at Village **Kaliani** P.O – **Puratan Bongaon**, P.S. - Petrapole, District North 24 Parganas. The respondent received the said notice on 09/12/2025, and respondent appeared in the court on 10-02-2026 along with an affidavit petition and his lawyer who filed vokalatnama for him and the respondent filed declaration that he has no objection, if the petitioner obtains a decreed declaration of divorce from the court.

On the date of hearing, the Petitioner has been examined in full as **PW.- 1** and was discharged. The **P.W.- 2** her mother Saraswati Biswas, has been examined in full and discharged and the same remains unchallenged. Petitioner file one (1) birth certificate of female child namely Barsha Sarkar who was born on 07/02/2014 and her age about 11 years and she is living with her mother, and the said photo copy of the birth certificate of her daughter marked as **Exbt. P- 1** after tally with original birth certificate produced by for seen. Thereafter the original birth certificate is returned to the petitioner then and there from the court after tally with photocopy of the same.

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 of divorce in favour of the petitioner/wife **Shampa Sarkar Biswas** .

Thereafter, the petitioner / wife has been examined as P.W.-1 and discharged. The P.W.-1 has stated in the evidence that their marriage has been solemnized as per Hindu rites and customs on dated 09/05/2013 at her father's house and thereafter she went to her in laws house and stayed there with her husband. She gave birth to female child namely Barsha sarkar on 07/02/2014. Her husband to torture her and assaulted her on various ground and also demanded dowry articles from her and when she failed to fulfil their demand she was tortured and assaulted. She deposed that her husband has illicit relationship with a woman. Thereafter she was driven out of her in laws home on 06/06/2023 and since then she is living at her parent's home with her mind daughter. She said that the OP doesn't take care of her and her daughter. So, she filed this divorce case against the accused. She deposed that OP tortured so much that it is impossible for him to live with him. PW-2 her mother also confirmed the fact of marriage of the petitioner and O.P. and also torture and assault made by the O.P. to the petitioner. She also deposed that her husband didn't take care of her and also her granddaughter. Hed used to assault her and didn't provide her adequate food. He doesn't take care of her daughter Barsha and her after driven them from their home. They tried to save the marriage life of the petitioner and the OP but the OP didn't listen to her. So, she also submitted for divorce of the marriage of the petitioner and the OP. Wxbt.P-1 proves the birth of the child and from the said document it is seen that the parties are parents of the child. Birth of the child is presumption of valid marriage. Ld. Advocate submitted that apert from the birth certificate there is no other proof of marriage and the name of the OP appears as father of the child.

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.

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 **09-05-2013** in between the Petitioner and the Respondent. Therefore, this case succeeds.

C.F. Paid is correct.

Hence, it is,

ORDERED

That the **Matrimonial Suit no. 717 of 2024** 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. Shampa Sarkar Biswas** and the respondent **Sri Biswajit Sarkar** which had been solemnized on **09-05-2017** 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.