

**IN THE COURT OF THE 1ST ADDITIONAL DISTRICT JUDGE AT
ALIPORE, DISTRICT: SOUTH 24-PARGANAS**

Present : Rajesh Chakraborty (J.O. Code : WB00764)

Additional District Judge, 1st Court, Alipore

Matrimonial Suit No. 3029 of 2025

Kasturi Bisoi

...Petitioner

Versus

Subhodeep Jana

...Respondent

JUDGMENT

Date of delivery of Judgment: 21.04.2026

The present matrimonial suit has been instituted by the Petitioner under Section 25(1) of the Special Marriage Act, 1954 praying for annulment of marriage by a decree of nullity on the ground that the marriage has not been consummated owing to the wilful refusal of the Respondent to consummate the same.

The case of the Petitioner, in brief, is that the parties became acquainted through matrimonial negotiations initiated by their families. After discussions between the two families, notice of intended marriage was given and the marriage was solemnized by registration on 30.04.2025 before the Marriage Officer, Nadiar Chand Biswas, under the provisions of the Special Marriage Act, 1954. It is alleged that after such registration, although it was expected that the Respondent would take the Petitioner to his residence and commence matrimonial life, he intentionally avoided doing so. No reception ceremony was arranged, no effort was made by him to bring the Petitioner to the matrimonial home, and the parties continued to stay separately in their respective parental homes.

The Petitioner further contends that despite repeated requests by her and her parents, the Respondent avoided cohabitation on one pretext or another. On 08.10.2025, when the Petitioner and her family members visited the Respondent's parental residence, the Respondent allegedly declared that he could not accept the Petitioner as his wife on the plea that she was not modern and that there was mental mismatch. According to the Petitioner, the marriage was never consummated solely because of the willful refusal of the Respondent.

The Respondent entered appearance and filed written statement. In substance, he denied the allegations of fault on his part. At the same time, he admitted that

after registration of marriage the parties went back to their respective homes, that they never lived together even for a single moment, that the marriage was never consummated, and that the marriage was merely a paper marriage with no chance of reconciliation. He also prayed for appropriate orders.

On the basis of the pleadings, the following issues were framed by this Court.

- 1) Is the suit maintainable in its present form and law?
- 2) Whether the Petitioner has any cause of action to file this suit?
- 3) Whether the marriage is consummated or not due to willful refusal of the Respondent ?
- 4) Is the Petitioner entitled to get a decree of nullity of marriage as prayed for?
- 5) To what other relief the Petitioner is entitled to, under the law and equity?

DETERMINATION WITH REASONS

Issue no. 1. The Petitioner has sought a statutory remedy expressly provided under Section 25(1) of the Special Marriage Act, 1954. The marriage certificate produced in evidence as Exhibit 1 establishes that the marriage between the parties was registered under the said Act on 30.04.2025. The parties last resided and the cause of action arose within the territorial jurisdiction of this Court, as disclosed in the pleadings. There is no legal bar shown by the Respondent against maintainability. The suit has therefore been properly constituted and is maintainable in law.

Issue no. 2. Cause of action in a suit for nullity on the present ground arises when, after a valid marriage, the marriage remains unconsummated due to wilful refusal of one spouse. The Petitioner has pleaded that since the date of marriage the Respondent never took her to the matrimonial home, never cohabited with her, and expressly refused to accept her as wife. These averments disclose a complete cause of action. The written statement of the Respondent substantially admits that the parties never lived together and that the marriage was never consummated. Hence, the Petitioner clearly had cause of action to approach the Court.

Issue no. 3. This issue goes to the root of the matter. Under Section 25(1) of the Special Marriage Act, 1954, a marriage may be declared null and voidable if it has not been consummated owing to the wilful refusal of the Respondent to consummate the marriage.

The Petitioner entered the witness box as PW-1 and affirmed the case made in the plaint. She proved the original marriage certificate as Exhibit 1 and her identity document as Exhibit 2. She deposed that she prayed for the relief claimed in the plaint. In cross-examination, only a bald suggestion was put that her allegations were false, which she denied. No substantive challenge was made to her statement that there was no cohabitation or consummation.

The Respondent himself deposed as DW-1. He filed affidavit evidence and proved his identity document as Exhibit A. Significantly, in his written statement he admitted that after registration both parties went to their respective homes, that the Petitioner never came to the matrimonial home, that there was no relationship of husband and wife, and that the marriage was never consummated. Even in paragraph 8 of the written statement he accepted that the statements regarding non-consummation were substantially correct. These admissions are material and binding.

The defence of the Respondent appears to be that the Petitioner did not take initiative to commence married life. Such a plea does not stand to reason in the facts of the case. In ordinary matrimonial conduct, particularly immediately after marriage, it is expected that the husband would take necessary steps to receive the wife into the matrimonial household or at least make concrete arrangements for joint residence. The Petitioner's consistent case is that she and her parents repeatedly requested the Respondent to take her home, yet he avoided doing so. This version has not been effectively dislodged.

The Respondent's own pleading that the marriage is a mere paper marriage and that there is no chance of reconciliation strongly supports the Petitioner's case that he was never willing to enter into a normal matrimonial union. Where a spouse, after marriage, deliberately abstains from cohabitation and fails to make any genuine attempt to establish conjugal life, such conduct amounts to wilful refusal.

There is no evidence of any physical incapacity, external restraint, or circumstance beyond control that prevented consummation. The only reasonable inference from the materials on record is that the marriage remained unconsummated because the Respondent intentionally declined to perform marital obligations.

Accordingly, this issue is decided in favour of the Petitioner.

Issue no. 4. Once it is established that the marriage has not been consummated owing to the wilful refusal of the Respondent, the Petitioner becomes entitled to relief under Section 25(1) of the Special Marriage Act, 1954, unless barred by connivance, condonation, collusion or unnecessary delay. The Petitioner has specifically pleaded absence of connivance, condonation and collusion. Nothing has emerged in evidence to the contrary. The suit was filed within a reasonable

period after the cause of action matured. No legal impediment stands in the way of granting relief.

The Court is satisfied that the Petitioner has successfully proved the statutory ground for annulment.

Issue No. 5. In the facts of the case, the principal relief of nullity sufficiently meets the ends of justice. No separate order as to costs is called for.

In view of the findings recorded above, the suit succeeds on contest.

Hence it is

ORDERED

that the marriage between the petitioner Kasturi Bisoi and the respondent Subhodeep Jana, registered on 30.04.2025 under the Special Marriage Act, 1954 is hereby annulled and declared null and void by a decree of nullity under Section 25(1) of the said Act.

There shall be no order as to costs.

Let a decree be drawn up accordingly.

A copy of this judgment and decree be supplied to the parties free of cost as per law.

Note in the relevant Register and CIS.

Dictated & Corrected by me

Additional District Judge,
1st Court, Alipore

Additional District Judge,
1st Court, Alipore