

Order no.09.

Dated 08.08.23.

Today is fixed for passing order in respect of petition under Order 7 rule 11 of CPC dated 05.01.23 submitted by the O.P, though the date has been wrongly mentioned in the Order dated 06.07.23 as 05.01.22 in stead of 05.01.23.

Parties file hajirah.

Submitting the petition respondent has prayed for rejecting the application for alimony filed by the petitioner.

It has been contended that the instant application for alimony has not been filed under proper provision of law and statements made therein are false.

Order 7 Rule 11 of CPC lays down the procedure of rejection of plaint. Respondent failed to justify citing the relevant provision of law that the purported petition under section 36 of the Hindu Marriage Act (obviously misquoted) is a plaint. Moreover, the petition in question does not reveal any of the grounds for rejection of plaint as envisaged in Order 7 Rule 11 of CPC.

It is well settled that misquotation of provision of law can not be construed as a ground for rejection of substantial relief.

Cumulatively, there is nothing in the petition under consideration which calls for invoking the provision as laid down in Order 7 rule 11 of CPC. Accordingly, the petition dated is rejected, being misconceived, without any order as to costs.

However, petitioner must remove the defect has has been pointed out by the respondent in the cause title of the petition for alimony pendente lite.

To 10.10.23 for taking steps. Further order shall be passed thereafter.

D/C by me,

ADJ, FTC-II, Sealdah.

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