

Matrimonial Suit No. 105 of 2025

CNR No. WBUD05-001368-2025

Present : Sri Plaban Mukherjee (J.O Code : WB01427)

SUDIPTA BOSE Petitioner

vs.

PREMA MODAK Respondent

Order No. 03,
Dated 16.02.2026

Today is the date fixed for order.

The instant suit has arisen out of an application under section 28 of the Special Marriage Act.

Both the petitioners are present by filing their haziras through their learned Advocate.

Now, the case record is taken up for passing order.

Learned Advocates for the petitioners submitted that the marriage in between the petitioners was solemnized as per the provision of Special Marriage Act on 28-12-2023 at Islampur, Dist. Uttar Dinajpur, before Marriage Registrar **Najmin Akhtari** which is within the jurisdiction of this Court. It is further submitted that the marriage in between the petitioners was duly consummated and out of their wedlock no child was born.

It is further submitted that in course continuation of the marriage tie difference of opinions cropped up between the parties and they failed to resolve the same despite their best effort. The difference of opinion reached to such an extent that they started to reside separately on and from 04-05-2024 as they have noticed that there were no chance of reconciliation and finally they have decided to put an end in their relationship by mutual consent and as such they have applied for divorce by filing an application under section 28 of Special Marriage Act, for getting decree of divorce on mutual consent.

The instant suit was instituted on 06-08.2025.

The basic elements which the parties are required to prove for getting a decree of divorce on mutual consent under section 28 of the Special Marriage Act, are as follows:-

1. That the parties have been living separately for a period of one year or more immediately preceding to the institution of the suit;
2. That the parties have not been able to live together as husband and wife;
3. That they have mutually agreed that the marriage should be dissolved.

In order to substantiate their case both the petitioners, i.e. the husband and the wife have examined themselves on oath as P.W. 1 and P.W. 2 respectively. Both the petitioners have corroborated their versions as has been

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[Continuing Order dated 16.02.2026]

mentioned in the petition. It is their contention that they have been living separately for more than one year. It is also their contention that there is no scope to live together as husband and wife and that they have mutually taken conscious decision to put an end to their marital tie and obligations. Here in the instant case from the evidence of both the parties, it appears that they started living separately at separate places since 04-05-2024. This Court does not find any material in their evidence to disbelieve their testimony. It is to be mentioned here that both the parties asserted that their marriage was solemnized as per the provision of Special Marriage Act on 28-12-2023 at Islampur, Dist. Uttar Dinajpur, before Marriage Registrar Najmin Akhtari, as it appears that from the Marriage Registration Certificate lying in the case record, which is within the jurisdiction of this court.

It is also pertinent to mention here that the date of marriage of the parties to the instant suit is 28-12-2023 and the present suit was instituted on 06.08.2025 which goes to signify that the instant suit was not instituted within one year from the date of their marriage. It has also come out from the case record that during the cooling off period of 6 months, the petition has not been withdrawn by the parties. The object of this time frame is to give an opportunity to the parties for reconciliation and if the petition be not withdrawn during this time span, it can easily be presumed that the parties are agreed to dissolve their marriage tie by mutual consent. From the evidence of the parties before this court, this Court does not find any impediment to allow the prayer of the petitioners.

Court fees paid are reported to be correct.

Hence it is,

O R D E R E D

That instant Mat Suit being no. 105 of 2025 be and the same is allowed on consent under section 28 of the Special Marriage Act, without any order as to cost.

The marriage tie between the parties namely, Sudipta Bose and Prema Modak solemnized on 28th day of December, 2023 be and the same is dissolved by a Decree of Divorce on mutual consent with effect from the date of the decree.

Decree be drawn up.

Thus this suit is disposed off.

Note in the relevant register.

Upload in the CIS.

Dictated & Corrected by me.

(PLABAN MUKHERJEE)
Additional District Judge
Islampur, U/D

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Islampur, U/D