



The said C.P. which is pending adjudication has been filed by the Opp. Party-husband in the marriage invoking section “12(b)(i)(ii) of the Hindu Marriage Act”.

2. Learned counsel for the petitioner in the present application was heard extensively.

3. After filing of the petition by the husband in the marriage quoting provisions of the Hindu Marriage Act which are wrongly mentioned in the petition, a petition O.7, R.11 of C.P.C. was filed by the present petitioner-opp. party in the C.P. for rejection of plaint. The said provision assumes importance in addressing the issues and is reproduced herein:

“(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law.”

4. Learned Judge, Family Court has considered in detail the provisions O.7, R.11 as reproduced in the order and has relied the decision of the Hon'ble Supreme Court in **Saleem Bhai v. The State of Maharashtra: (2003) 1 SCC 557.**



The paragraph wherein the learned Judge, Family Court has dealt with the issue is reproduced herein. The underlined portions are considered by this Court in disposing of the matter.

“In a decision reported in (2003) 1 SCC 557 in the case of Saleem Bhai Versus The State of Maharashtra, it has been laid down that as per clause-(a) of Order-7, Rule-11 CPC, the plaint is liable to be rejected if it does not disclose a cause of action and clause-(d) thereof is attracted if the suit appears from the statement in the plaint to be clearly barred by law. The Trial Court can exercise its power under Order-7 Rule-11 CPC at any stage of the suit, before registering the plaint or after issuing summons to the defendants, at any time before conclusion of the trial and for the said purpose, the averments in the plaint are germane and the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage. Law is well settled that mentioning a wrong provision of law or non-mentioning of a relevant provision of law in a petition cannot be a ground to reject the petition and it is the duty of the Court to apply the correct provisions of law so as to deliver the relief to the parties who is entitled to it. (2013) 115 CLT 873 Surubali Deep Versus Jamuna Naik). However, the marriage between the parties is not in dispute and the contention of the respondent can be adjudicated after completion of trial and so, I am not inclined to allow the petition and hence, the petition filed U/o-7, Rule-11 CPC stands rejected. Put up on 17/12/25 for cross-examination of P.W.1.”



5. Learned counsel for the petitioner relies on the judgment dated 21.01.2015 of the High Court at Calcutta in Appellate side in C.O. No.40 of 2015 of *Kala Raman V. Ravi Ranganathan*.

In the said decision, the Hon'ble Single Judge of the Calcutta High Court (as his lordship then was) considered in detail the ingredients of Clause-c sub section 1 of section 12 of the Hindu Marriage Act and affirmed the judgment of the learned trial Court in rejecting the petition filed U/O.7 R.11 (d) seeking rejection of plaint in a matrimonial suit.

6. In the present case petition filed by the petitioner-wife O.7, R.11 (a), ground has been taken that there is no such provision such as section 12(b)(i), (ii) in the Hindu Marriage Act, 1955. Thereafter, in the said petition, section 12 (2) (b) has been quoted.

After quoting the provision at paragraph 1 of the petition, it has been stated that “*therefore the petition fails to stand in the touch stone of law as stated hereinabove*”.

At paragraph 2 of the petition filed O.7, R.11 (a), it has been stated that “*it is humbly submitted that, a marriage is voidable if the following ingredients of Section 12 (1) are satisfied*”.

Thereafter, sub section 12 (1) onwards have been quoted and it has been stated that “*the Opp. Party is not suffering from mental disorder or frequent attacks of insanity. Thus none of the provisions of section-12(1) or*



Section-12(2) of the Act is attracted is consideration of the facts stated in the petition” (sic).

Paragraph 3 of the petition is reproduced herein.

“That, the cause of action must be clearly pleaded in the petition to establish the legal basis of the claim. That the petition does not disclose any valid cause of action to declare the marriage as voidable.”

7. Though in the present case, the learned counsel for the petitioner relies on O.7 R.11 (a) of CPC, the principles laid down in the decision of the Coordinate Bench of the Calcutta High Court would apply and rejection of the application filed under O.7, R.11 CPC, by the learned trial Court cannot be faulted with.

8. It can also be seen that the principles enunciated by the Hon'ble Supreme Court in **Saleem Bhai** (*supra*) have been reiterated and applied by the Coordinate Bench of the Calcutta High Court in its judgment dated 21.01.2015, though the said decision was not cited.

9. In view of discussions as made above and applying the principles laid down in **Saleem Bhai** (*supra*) and reasons indicated it has to be and is held that the decision of the learned trial Court rejecting the application filed U/O.7, R.11 of CPC by the petitioner is just and proper and is not to be interfered with. The C.P. filed by the Opp. Party cannot be nipped at the bud by resorting to U/O-7, R-11 of CPC.



However, it is clarified that no part of this order shall be treated to be reflection on the merits of the case of either of the parties to the pending C.P. The learned trial Court shall proceed to adjudicate the C.P. in accordance with law.

The writ petition is dismissed.

(Mruganka Sekhar Sahoo)
Judge

Orissa High Court, Cuttack
The 23rd February 2026/Rajesh