



राजस्थान न्यायालय पीठ, जयपुर
Certified Copy of Order Dated... 24/2/26

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20/9/25

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

...

D.B. CIVIL MISC. APPEAL NO. 4323/2025.

...

[REDACTED]

... Appellant (Wife)/

Opposite Party

Versus

[REDACTED]



सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ
जयपुर

... Respondent (Husband)/ Petitioner

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DB CIVIL MISC APPEAL UNDER
SECTION 19 OF THE LEARNED
FAMILY COURTS ACT AGAINST
THE ORDER DATED 03.09.2025
PASSED BY VINOD KUMAR GIRI,
JUDGE, FAMILY COURT, NO. 3,
JAIPUR METROPOLITAN - I, IN
CASE NO. 299/2025 ([REDACTED]
[REDACTED])
BY WHICH THE APPLICATION
FILED BY THE APPELLANT
UNDER ORDER 7 RULE 11 CPC
READ WITH SECTION 151 CPC
WAS DISMISSED.

...



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Civil Miscellaneous Appeal No. 4323/2025

[REDACTED]

----Appellant

Versus

[REDACTED]

----Respondent

For Appellant(s) : Mr. Ajay Shukla
Ms. Jyoti Sharma
Mr. Raghav Sharma
Mr. Shivam Sharma

For Respondent(s) : Mr. Pawan Sharma
Mr. Ayush Bansal
Mr. Akshay Yadav for
Mr. Ashok Bansal

**HON'BLE MR. JUSTICE SUDESH BANSAL
HON'BLE MR. JUSTICE ANIL KUMAR UPMAN**

Judgment

24/02/2026

1. By means of instant appeal filed by wife under Section 19 of the Family Courts Act, 1984, a challenge has been made to the order dated 03.09.2025 passed by Family Court No.3, Jaipur Metropolitan-I, declining to reject the divorce petition of husband bearing Case No.299/2025, as not maintainable and application under Order 7 Rule 11 read with Section 151 CPC filed by wife, has been dismissed.

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2. At the outset, it is not in dispute that divorce petition by husband has been filed under Section 13(1)(ia) of Hindu Marriage Act, 1955, seeking to dissolve his marriage with respondent-wife dated 30.04.2021 on the ground of cruelty. Initially, divorce petition was filed before the Family Court, Cuttack, but same has been transferred to the Family Court at Jaipur by the Hon'ble Supreme Court vide order dated 08.05.2025 with observation that another petition of wife filed under Section 9 of the Hindu Marriage Act for Restitution of Conjugal Rights is pending before the Family Court at Jaipur.

3. The application under Order 7 Rule 11 read with Section 151 CPC dated 29.01.2024 was filed by wife when divorce petition of husband was pending before the Family Court, Cuttack. In the application, following two objections were raised to reject the divorce petition:-

- (i) Family Court, Cuttack does not have any territorial jurisdiction to hear and decide the divorce petition;
- (ii) Parties belong to Meena community (Scheduled Tribes) and by virtue of Section 2(2) of the Hindu Marriage Act, provisions of HMA are not applicable to the members of the Scheduled Tribes, hence, divorce petition filed by husband under Section 13(1)(ia) of Hindu Marriage Act, on the ground of cruelty, is not maintainable.

4. As far as objection in respect of territorial jurisdiction of the Family Court, Cuttack, is concerned, since the divorce petition of husband has been transferred from Family Court, Cuttack to Family Court, Jaipur, in furtherance to the order of the Hon'ble Supreme Court dated 08.05.2025, the first objection raised in the



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application under Order 7 Rule 11 CPC, does not survive and has come to rest.

5. As far as another objection is concerned, firstly it is noteworthy that in the divorce petition, in para No.2, husband has specifically pleaded that the marriage between parties dated 30.04.2021 was solemnized as per the Hindu Rites and Customs. It is further case of husband that, although parties belong to Meena Community, but are Hindus and follow similar rites and ceremonies for marriage and procedures for dissolution, restitution of conjugal rights as are envisaged under the Hindu Marriage Act. No customs or usage, contrary to the Scheme of Hindu Marriage Act prevailing in their community, since the marriage was solemnized as per Hindu rites and ceremonies by taking seven steps together around sacred fire. Similarly, for dissolution of marriage, ground of cruelty envisaged under Section 13(1)(ia) of the Hindu Marriage Act, has been invoked.

6. At this juncture, we have been apprised that appellant-wife too has invoked provision of Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights and she has filed an another petition against her husband, which too, is pending before the Family Court, Jaipur. It has further been pointed out that the Hon'ble Supreme Court vide its order dated 08.05.2025, taking note of pendency of petition of wife under Section 9 of the Hindu Marriage Act before the Family Court at Jaipur, transferred the divorce petition of husband filed under Section 13(1)(ia) of the Hindu Marriage Act from Family Court, Cuttak to Family Court,



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Further, we find that wife has not filed any reply to the divorce petition, but in various complaints made by her against husband, (i) in the department of husband; (ii) in the FIR registered by wife; and (iii) in the Special Leave Petition itself filed by wife before the Hon'ble Supreme Court, wife herself admits solemnization of her marriage as per Hindu Rites and Ceremonies, but in the application under Order 7 Rule 11 CPC, in para Nos.9 & 10, she has pleaded in an ambiguous and vague manner that the marriage was solemnized as per Customs of Meena Community.

7. Surprisingly, in her application filed under Order 7 Rule 11 CPC, in paras No. 9 & 10, wife has mentioned that marriage between parties was solemnized as per customs of Meena community. Nevertheless, it has been noticed that neither the manner of any prevailing custom of Meena community for solemnization of marriage, in a different manner and procedure as followed by Hindus has been mentioned nor, it has been pleaded that the marriage ceremonies performed by Hindus as per rites and ceremonies envisaged under Hindu Marriage Act, are not followed in the Meena community. Thus, the objection of wife, based on prevailing of any customs in Meena community, is ambiguous and vague.

8. Be that as it may, at this stage, wife has not made it clear as to what Custom was/is prevailing in the Meena Community, for marriages, dissolution of marriages etc., which attracts applicability of Section 2(2) of Hindu Marriage Act, to deprive the husband to file divorce petition under Section 13(1)(ia) of Hindu Marriage Act. More so when wife herself has taken resort to



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Section 9 of the Hindu Marriage Act by filing a separate petition for restitution of conjugal rights.

9. Therefore, at the stage of deciding the application under Order 7 Rule 11 CPC, taking into consideration the pleadings averred by husband in his divorce petition, Family Court has not erred in rejecting the application under Order 7 Rule 11 CPC. At this stage, the divorce petition of husband may not be rejected as not maintainable.

10. Accordingly, the order impugned warrants no interference by this Court and the appeal is hereby dismissed. Consequently, *ex parte* stay order dated 16.10.2025 stands vacated and stay application also stands dismissed.

11. All pending application(s), if any, also stand(s) disposed of.


(ANIL KUMAR UPMAN),J


(SUDESH BANSAL),J

GAUTAM JAIN /NITIN-28(S)



1	नम्बर	38/3
2	प्राथमिक पत्र	
3	दिनांक प्रस्तुत	25/2/26
4	दिनांक मिला देने की प्रति	26/2/26
5	प्राथमिक कमी पूर्ति	
6	दिनांक कमी पूर्ति	
7	दिनांक देखायी	26/2/26
8	दिनांक देने प्रतिनिधि	26/2/26
9	प्रतिनिधि शुल्क	10.50/-
10	प्रयोजन	रिकार्ड
11	प्रतिनिधिकार	कोछे

दिनांक 26/2/26

26/2/26