



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRP NO.26 of 2026
CNR NO. ODHCO10200902026

(In the matter of application under Section 115 of Code of Civil Procedure, 1908).

Biswaranjan Dash ... ***Petitioner***

-versus-

Manasi Mohapatra ... ***Opposite Party***

For Petitioner : ***Mr. D.K. Rath, Advocate***

For Opposite Party :

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:21.09.2026(ORAL)

G. Satapathy, J.

1. The short grievance of the husband-petitioner in this revision is against the impugned order refusing to reject the application filed by the wife-OP U/S.13(1) of the Hindu Marriage Act, 1955 (in short, "the Act") for divorce in the Court of learned Judge, Family Court Bhubaneswar.

2. Admittedly, the petitioner and OP in this revision are the husband and the wife and their marriage was solemnized on 08.07.2018 at Hotel



Gopinath, Khandapada Road, Nayagarh in presence of their family members, friends and well-wishers, but due to dissension, the OP-wife filed an application before the learned Judge, Family Court, Bhubaneswar for dissolution of their marriage, however, in such application, the husband presented an application under Order VII Rule 11 of the Code of Civil Procedure (in short, "CPC") for rejection of the application filed by the OP-wife for divorce on the grounds that the learned Judge, Family Court, Bhubaneswar lacks territorial jurisdiction, since the marriage was neither solemnized within the territorial jurisdiction of the said Court nor did the parties last resided together within the jurisdiction of the said Court nor was the husband, at time of presentation resided within the jurisdiction of the said Court, however, the learned Judge, Family Court, Bhubaneswar by the impugned order rejected such application under Order VII Rule 11 of the CPC as filed by the husband on the ground that the trial of the case is at fag end and posted for argument.



3. In the course of hearing, Mr. Deba Kumar Rath, learned counsel appearing virtually for the petitioner submits by highlighting the provision of Section 19 of the Act that the Court lacks territorial jurisdiction to try the case on account of the parties neither residing together within the jurisdiction of the family Court nor does the wife satisfy any of the other grounds as provided in Section 19 of the Act to file a petition for divorce in the said family Court, but the learned Judge, Family Court, Bhubaneswar has erroneously passed the impugned order rejecting the application of the husband and, thereby, the impugned order needs to be set-aside and considered afresh. Accordingly, Mr. Rath prays to set-aside the impugned order.

4. Admittedly, the notice issued against OP-wife returned with postal endorsement "No such person in this address", but this Court considering the submission wants to examine the maintainability of the petition filed by the revision petitioner-husband at the



threshold. The main challenge of the petitioner-husband in this revision is as to the territorial jurisdiction of the trial Court in terms of the provision of Section 19 of the Act, which is extracted as under”-

"19. Court to which petition shall be presented-*Every petition under this Act shall be presented to the District Court within the local limits of whose ordinary original civil jurisdiction-*

- (i) the marriage was solemnized, or*
- (ii) the respondent, at the time of the presentation of the petition, resides, or*
- (iii) the parties to the marriage last resided together, or*
- (iii-a) in case the wife is the petitioner, where she is residing on the date of presentation of the petition, or*
- (iv) the petitioner is residing at the time of the presentation of the petition, in a case where the respondent is, at that time, residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive."*

5. A careful perusal of the provision of Section 19(iii-a) of the Act makes it ample clear that in case the wife is the petitioner, every petition under this Act shall be presented to the District Court within the local limits



of whose ordinary original civil jurisdiction, the wife is residing on the date of presentation of the petition, but on a plain perusal of the cause title of the revision petition, it is found that the OP-wife is residing at LB-134, Stage-II, Laxmisagar BDA Colony, PO-Budheswari, PS-Laxmisagar, Bhubaneswar, Dist-Khordha. Further, the copy of the impugned order containing the address of the petitioner reveals that the OP-wife is residing in the same address as indicated above and, thereby, the case of the OP-wife squarely comes under sub-section (iii-a) to Section 19 of the Act and, thereby, conferring jurisdiction on the learned Judge, Family Court, Bhubaneswar to proceed in the matter.

6. In addition to the above, Section 21(1) of the CPC makes it very clear that “no objection to the place of suing shall be allowed by any Appellate or Revisional Court, unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent



failure of justice". In this case, the order sheet produced by the petitioner-husband in the revision discloses that evidence has already been taken with examination of PW1 and, thereby, the objection to the place of suing has not been taken at the earliest point of time, rather the impugned order suggests that the case was posted for argument. In such view of the matter, it simply appears to the Court that the petitioner-husband in order to protract the litigation has filed such application raising objection to territorial jurisdiction of the Court at this stage.

7. No doubt, the learned counsel for the petitioner-husband refers to the cross-examination of PW1 (wife) to suggest that the wife is not residing at Bhubaneswar, however, the relevant part of the evidence in para-29 of the cross-examination as indicated by the learned counsel for the petitioner reveals that the wife had left Bhubaneswar after prosecuting PGDCA, but such evidence does not mean that the wife cannot come back and reside in



Bhubaneswar. Even otherwise, the provisions of Order VII Rule 11 of the CPC do not confer power on the Court to reject the plaint for want of territorial jurisdiction and in case, the Court comes to a conclusion that it has no territorial jurisdiction, it can return the plaint, but by no means the Court can reject the plaint for want of territorial jurisdiction. Albeit, the revision-petitioner claims that the wife has no cause of action to proceed against the husband, but rather such assertion appears to be no more than a figment of his imagination, since nothing was produced or demonstrated by the revision-petitioner to establish that the wife has no cause of action to file an application for divorce against the husband-revision petitioner.

8. In the result, the present Civil Revision being devoid of merit stands dismissed.

(G. Satapathy)
Judge

Signature Not Verified

Digitally Signed
Signed by: SUBHASMITA
Designation: Sr. Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 22-Sep-2026 18:52:57

Orissa High Court, Cuttack,

Dated the 22nd day of September, 2026/Subhasmita