

Matrimonial Suit No.363 of 2016

Order No.26,

Dated – 06.01.2020.

The record is taken up for passing necessary order in respect of an application for amendment of plaint under O-6, R-17 read with section 151 of the C.P.C. filed by the petitioner Moumita Das. I have heard the submission of Ld. Advocates of both sides on 03.12.2019.

Ld. Advocate for the petitioner submitted that the amendment of plaint as mentioned in para no.8 and 18 is necessary for determining real controversy between the parties and the amendment petition has been filed before commencement of trial of this case.

Ld. Advocate for the respondent on the other hand raised oral objection to the effect that this Court had fixed date for evidence, so the trial has commenced. As such the petitioner must have show why the said amendment could not be made prior to commencement of trial. He also submitted that the facts which the petitioner intends to incorporate in the amended part of the plaint is subsequent to the filing of the case. As such the said amendment should not be allowed.

Heard both sides. Perused. Considered.

Parties have not led any evidence in this regard, so the trial has not actually commenced in this case. The amendment sought for will not change the basic nature or character of this case. Though some subsequent events have been incorporated by a part of the proposed amendment I do not find that the original cause of action of this case has shifted by the proposed amendment. So, after considering all the facts and circumstances of this case I am inclined to allow the application dated 17.09.2019 filed by the petitioner/wife with a cost of Rs.300/-.

Hence, it is,

ORDERED

that the amendment petition dated 17.09.2019 is hereby allowed under O-6, R-17 C.P.C. for the ends of justice along with a cost of Rs.300/- to be paid by the petitioner to the respondent.

The petitioner is directed to file amended plaint by **20.01.2020** along with the payment of cost.

The respondent may file additional W/S, if any, after service of copy of amended plaint upon them.

Dictated & corrected by me.

**Additional District Judge,
3rd (Special) Court, Jalpaiguri.**

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