

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE,  
3RD COURT, KRISHNAGAR (NADIA)**

**Mat Suit case No. 131 of 2016**

**R No-312 of 2016**

**Present: Sri Basant Sharma, ADJ 3<sup>rd</sup> Court, Krishnagar, Nadia**

**Order No. 52 dt. 20.02.25**

Today is fixed for hearing of the petition filed by the petitioner under Order 6 Rule 17 and read with Section 151 CPC dated 06.07.2024.

Both the parties are present by filing hazira.

The petition dated 06.07.2024 is taken up for hearing.

It is stated in the petition that the petitioner had filed the instant suit for Judicial Separation under Section 10 of the Hindu Marriage Act, 1955 and this suit is pending for disposal. It is further stated that during long course of litigation, since filing of this Suit, it has been established that there is no scope for the parties to rejoin or to resume their conjugal life and hence the remedy of judicial separation will not help the parties anymore and as such the marital tie is required to be dissolved. It is stated that the petitioner has already pleaded the fact of cruelty on the part of the respondent and other facts have been also been averred, hence no further of factual background is required to be inserted or added in the pleading.

It is also stated that the marriage has been broken between the parties irretrievably and they cannot stay together in a conjugal reunion. Therefore, the petitioner has prayed for amendment by adding an alternative prayer for divorce or by way of dissolution of marriage between the parties by decree of divorce.

OP respondent has filed written objection to the application filed by the petitioner and it is stated that amendment petition is not maintainable. It is further stated that adamant petitioner and his family members used to torture upon the respondent and her children and ultimately they were driven out by the petitioner from the house on 26.01.2016 and since then respondent along with both children were residing at her paternal house.

It is further stated that it is not possible in the eye of law of getting judicially separated and divorce in some cases as the case for divorce is completely of different nature. Therefore respondent prays for rejection of the application filed by the petitioner.

Head both sides.

Perused the case record as well as application for proposed amendment and written objection filed by the respondent to the proposed amendment. During the time of hearing Ld. Advocate for the petitioner submitted that if the proposed amendment is allowed it will not change the nature and character of the suit as the petitioner has sought alternative prayer for divorce along with the relief under Section 10 of the Hindu Marriage Act.

In support of his contention Ld. Advocate for the petitioner referred decision reported in 2023(4) Indian Civil Cases 772 (AP), page.

The petitioner has sought for the amendment by adding alternative prayer for decree of divorce and the instant suit has been filed by the petitioner seeking relief u/s- 10 of the Hindu Marriage Act for judicial separation. I think alternative prayer for the divorce

along with relief for judicial separation in the instant case will not change the nature and character of the suit. The evidence in this case has not yet commenced. Moreover, I also think that if the prayer of petitioner is allowed then it will avoid multiplicity of the suits as such the prayer for proposed amendment should be allowed.

Hence, it is,

**Ordered**

that the petition under Order 6 Rule 17 and read with Section 151 CPC dated 06.07.2024 filed by the petitioner is allowed on contest but without cost.

Petitioner is directed to file fresh amended plaint by next date.

To 29.04.2025 for filing of fresh amended plaint by the petitioner and additional W.O if any.

D/C by me

Sd/ Additional District Judge  
3<sup>rd</sup> Court, Krishnagar, Nadia