

MAT – 1227 OF 2024

Present : Rajesh Chakraborty (J.O. Code : WB00764)
ADJ, 1st Court, Alipore, South 24-Parganas

Order No. 26 Dated: 13.07.2026

Today is fixed for passing order of the petition U/O. 6 R. 17 of CPC.

Both parties are present by filing their respective hazira.

Ld. advocate for both sides are also present. Now, the record is taken up for passing order.

This is an application filed by the petitioner/husband under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure praying for amendment of the plaint by incorporating certain subsequent events and additional facts as detailed in the schedule of proposed amendment appended to the application.

The petitioner has contended that after institution of the instant matrimonial suit for dissolution of marriage, certain subsequent events have taken place which have a direct bearing upon the issues involved in the suit. It is further contended that the respondent has subsequently entered appearance and filed written statement containing, according to the petitioner, several incorrect and misleading statements, particularly with regard to the allegation of non-maintenance. The petitioner, therefore, seeks to incorporate facts relating to the alleged conduct of the respondent after institution of the suit, the lodging of General Diaries before the local police station and particulars of financial assistance allegedly extended by the petitioner to the respondent and the minor child from time to time. The petitioner submits that the proposed amendment is necessary for effective and complete adjudication of the disputes involved in the present proceeding and that the proposed amendment would neither alter the nature and character of the suit nor cause prejudice to the respondent.

The respondent has contested the said application by filing written objection. The respondent has denied and disputed the allegations made in the amendment application and has contended that the proposed amendment is mala fide, speculative and intended to harass the respondent. It has further been contended that the facts sought to be incorporated are afterthoughts and that the proposed amendment on the basis of subsequent incidents is not permissible in law. The respondent has accordingly prayed for rejection of the application.

Heard the learned Advocates appearing for both sides. Perused the application for amendment, the written objection and the materials available on record.

The scope and ambit of Order VI Rule 17 of the Code of Civil Procedure are no longer res integra. The object of the provision is to enable the Court to determine the real questions in controversy between the parties and to avoid multiplicity of proceedings. It is equally well settled that amendment of pleadings should ordinarily be allowed if such amendment is necessary for determining the real controversy between the parties, provided that the amendment does not introduce a completely new and inconsistent case, change the

fundamental nature and character of the suit or cause such prejudice to the opposite party which cannot be compensated in terms of costs.

The Hon'ble Supreme Court in *Revajeetu Builders and Developers vs. Narayanaswamy and Sons* reported in (2009) 10 SCC 84 has held that while considering an application for amendment, the Court should adopt a liberal approach if the amendment is necessary for proper and effective adjudication of the case. Similarly, in *Sampath Kumar vs. Ayyakannu* reported in (2002) 7 SCC 559, the Hon'ble Apex Court observed that amendments based on subsequent events should ordinarily be allowed in order to shorten litigation and to avoid multiplicity of proceedings. It is also well settled that the Court can and ought to take note of subsequent events having material bearing on the rights and obligations of the parties.

In the present case, a substantial portion of the proposed amendment relates to events which are stated to have occurred after institution of the suit, namely the alleged return of the respondent to the matrimonial home, the subsequent incidents alleged to have occurred in November and December, 2024, the lodging of General Diaries and the alleged threats extended to the petitioner. The petitioner also seeks to bring on record the particulars of financial transactions allegedly made in favour of the respondent and the minor child in answer to the allegations contained in the written statement. These are all matters which, if proved by evidence, may have a bearing upon the matrimonial relationship between the parties and upon the rival allegations made by them in the suit. The said facts are, therefore, relevant for complete and effective adjudication of the disputes involved in the present proceeding.

This Court further finds that the proposed amendment does not seek to introduce any altogether new cause of action nor does it alter the fundamental nature and character of the matrimonial suit, which continues to remain a suit for dissolution of marriage. The amendment merely seeks to place on record subsequent developments and certain additional facts in support of the existing pleadings. Whether the allegations sought to be introduced are true or false is a matter to be adjudicated upon at the trial after the parties adduce evidence and such question cannot be gone into at the stage of considering an application for amendment.

The contention of the respondent that the proposed amendment is based on subsequent events and is therefore impermissible cannot be accepted. On the contrary, subsequent events having direct nexus with the controversy involved in the suit ought to be brought on record so that the Court may effectively adjudicate upon all disputes between the parties in the same proceeding. Refusal to permit such amendment may result in multiplicity of proceedings, which the law always seeks to avoid.

Moreover, no irreparable prejudice would be caused to the respondent if the amendment is allowed, inasmuch as the respondent shall have full opportunity to file additional written statement, if so advised, and to contest the allegations sought to be introduced by the petitioner during trial. The inconvenience, if any, can adequately be compensated by granting liberty to the respondent to file consequential pleadings.

Having regard to the aforesaid facts and circumstances, this Court is of the considered view that the proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties and for complete and effective adjudication of the disputes involved in the present suit.

Accordingly, the application under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure stands allowed.

The petitioner is permitted to amend the plaint in terms of the schedule of proposed amendment annexed to the application.

The amended plaint shall be filed within a period of fifteen days from this date upon serving advance copy thereof upon the learned Advocate for the respondent.

The respondent shall be at liberty to file additional written statement, if so advised, within thirty days from the date of service of the amended plaint.

It is made clear that this Court has not expressed any opinion on the merits of the allegations sought to be introduced by way of amendment and all issues are left open to be decided at the trial on the basis of evidence adduced by the parties.

The application is accordingly disposed of.

Fix **07.09.2026** for filing amended plaint and for further proceedings.

Dictated & Corrected by me

Additional District Judge,
1st Court, Alipore

Additional District Judge,
1st Court, Alipore

Misc CASE 316 OF 2025

Order No. 27 Dated: 13-07-2026

Today is fixed for filing written objection by the op and filing affidavit of assets by both parties .

Petitioner and OP file their respective hazira.

OP is directed to file affidavit of assets and written objection .

The case is adjourned today for ends of justice.

Fix 07-09-2026 for filing written objection by the op and filing affidavit of assets by the OP.

Dictated & Corrected by me

Additional District Judge,
1st Court, Alipore

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1st Court, Alipore