

MAT – 2535 of 2016

Present : Sri Rajesh Chakraborty (JO Code-WB00764)
Additional District Judge, 1st Court, South 24 Pgs at Alipore

Order No. 44 dated 28.01.2026

Today is fixed for hearing of the petition dt. 29.02.2024.

Parties file their respective hazira.

This Court has considered the application filed by the petitioner under Order VI Rule 17 of the Code of Civil Procedure read with Section 151 of the Code of Civil Procedure dt. 29.02.2024, whereby permission is sought to amend the plaint by inserting an additional prayer, namely, a decree for damages to the tune of Rs. 2,00,000/- against the co-respondent, Smt. Ananya Chatterjee Banerjee.

Also perused the written objection filed by the adversary.

The suit, as instituted, is one seeking dissolution of marriage between the petitioner and the respondent. The foundation of the lis is the marital relationship and the reliefs claimed are those which flow from the matrimonial jurisdiction of this Court. The proposed amendment, however, seeks to introduce a claim for monetary damages against a third party, which is in the nature of a civil claim founded on an alleged independent cause of action distinct from and collateral to the matrimonial dispute.

The scope and object of Order VI Rule 17 of the Code of Civil Procedure is to permit amendments which are necessary for the purpose of determining the real questions in controversy between the parties. While the provision is to be construed liberally, it does not extend to permitting a party to introduce a new and inconsistent cause of action or to convert the nature of the proceedings into one of a fundamentally different character. In the present case, the adjudication of a claim for damages against a co-respondent would require examination of facts, evidence, and legal issues entirely outside the ambit of a suit for dissolution of marriage, and would entail a separate inquiry as to liability, causation, and quantum of damages. Such an inquiry is not incidental or ancillary to the relief of divorce but constitutes a substantive and independent civil claim.

It is also to be borne in mind that the matrimonial jurisdiction of this Court is circumscribed by the statute under which the suit has been instituted. The reliefs which can be granted in such a proceeding are those specifically contemplated by the

matrimonial law governing the parties. A claim for damages against a third party does not fall within the statutory framework of a matrimonial suit and cannot be engrafted into such proceedings by way of amendment.

Allowing the proposed amendment would, in effect, compel the respondent and the co-respondent to contest a claim of an entirely different nature within the same suit, thereby altering the character of the proceedings and expanding the scope of trial beyond what was originally contemplated. This would not only be contrary to the settled principles governing amendments of pleadings but would also cause procedural complications and potential prejudice by merging two distinct causes of action, each of which is required to be adjudicated in accordance with its own procedural and substantive legal standards.

The Court is of the view that if the petitioner is advised that she has a valid and enforceable claim for damages against the co-respondent, the proper course is to institute a separate suit founded on the requisite cause of action and supported by the necessary pleadings and court fees, so that such claim may be tried and decided independently in accordance with law.

For the foregoing reasons, this Court finds that the proposed amendment is neither necessary for determining the real controversy in the present matrimonial suit nor permissible in law, as it seeks to introduce a new, independent cause of action and to change the nature and scope of the proceedings.

Accordingly, the application for amendment of the plaint is rejected.

Let the suit proceed in accordance with law on the basis of the pleadings as they presently stand.

To **13.03.2026** for PH.

Dictated & Corrected by me

Additional District Judge,
1st Court, Alipore

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