

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.****CMPMO No. 686 of 2025****Decided on: 28.11.2025**

Lakesh

..... Petitioner

Versus

Samriti Kumari

.....respondent

Coram:**Hon'ble Mr. Justice Bipin Chander Negi, Judge**Whether approved for reporting? ¹

For the petitioner : Mr. Varun Rana, Advocate.**For the respondent** : Nemo.

Bipin Chander Negi, Judge (oral)

The present petition has been preferred against the impugned order dated 17.10.2025, passed by the learned Principal Judge, Family Court, Mandi, District Mandi, H.P. in CMA No. 1580/2024, titled Lakesh Rao vs. Samriti Kumari, whereby an application filed under Order 6 Rule 17 of CPC, seeking amendment of the petition filed for dissolution of marriage by way of decree of divorce under Section 13(1)(ia) of the Hindu Marriage Act filed by the present petitioner, has been dismissed.

2. Heard learned counsel for the petitioner. Perused the impugned order, documents appended along with the present petition.

¹ Whether the reporters of the local papers may be allowed to see the judgment?



3. From the perusal of the petition filed for divorce on 31.05.2023, it is evident that the same has been filed on the ground of cruelty. Amongst other pleas in the same, it has been alleged that false and unfounded allegations of extra marital relations of the present petitioner have been alleged with one lady, named Neha of District Kullu, H.P. The said Neha Thakur has been cited as a witness. Her examination-in-chief has been filed in the Court. Cross-examination of the said witness has been deferred.

4. In the application filed under Order 6 Rule 17 of CPC, an incident which is alleged to have occurred on 28.05.2025 is sought to be got incorporated in the petition filed seeking divorce. Details of the incident have been narrated in detail in the impugned order. The said incident in the reply filed to the application under Order 6 Rule 17 of CPC has been categorically denied.

5. The Trial Court has dismissed the application filed under Order 6 Rule 17 of CPC, as in the considered view of the Trial Court, an amendment sought under Order 6 Rule 17 of CPC must be necessary for determining the real question in controversy and for a just decision of the case. According to the trial Court, the subsequent event is outside the scope of the original matrimonial dispute and hence the same according to the



trial Court was not required to be got incorporated in the petition filed, seeking divorce.

6. Other than the aforesaid, the trial Court was of the view that qua the alleged incident dated 28.05.2025, the present petitioner had an independent legal remedy, which he was free to pursue in accordance with law.

7. It is a well settled position of law that normally a Court will declare only the rights of the parties as they existed on the date of the institution of the suit. In this respect, it would be appropriate to refer to **(1976) 1 Supreme Court Cases 194, case titled Rameshwar and others vs. Jot Ram and another.**

Relevant extract whereof reads as follows:-

6. The philosophy of the approach which commends itself to us is that a litigant who seeks justice in a perfect legal system gets it when he asks for it. But because human institutions of legal justice function slowly, and in quest of perfection, appeals and reviews at higher levels are provided for, the end product comes considerably late. But these higher Courts pronounce upon the rights of parties as the facts stood when the first Court was first approached. The delay of years flows from the infirmity of the judicial institution and this protraction of the Court machinery shall prejudice no one. Actus curiae neminem gravabit(1). Precedential support invoked by the appellant's counsel also lets him down provided we scan the fact situation in each of those cases and the legal propositions therein laid down.

7. The realism of our processual justice bends our jurisprudence to mould, negate or regulate reliefs in the light of exceptional developments having a material and equitable import, occurring during the pendency of the litigation so that the Court may not stultify itself by granting what has become meaningless or does not, by a myopic view, miss decisive alterations in fact-situations or legal positions and drive parties to fresh litigation whereas relief can be given right here. The broad principle, so stated, strikes a chord of sympathy in a



court of good conscience. But a seeming virtue may prove a treacherous vice unless judicial perspicacity, founded on well-grounded- rules, studies the plan of the statute, its provisions regarding subsequent changes and the possible damage to the social programme of the measure if later events are allowed to unsettle speedy accomplishment of a re-structuring of the land system which is the soul of this which enactment. No processual equity can be permitted to sabotage a cherished reform, nor individual hardship thwart social justice. this wider perspective explains the rulings cited on both sides and the law of subsequent events on pending actions.

9. The impact of subsequent happenings may now be spelt out. First, its bearing on the right of action, second, on the nature of the relief and third, on its impotence to create or destroy substantive rights. Where the nature of the relief as originally sought, has become obsolete or unserviceable or a new form of relief will be more efficacious on account of developments subsequent to the suit or even during the appellate stage, it is but fair that the relief is moulded, varied or re-shaped in the light of dated facts. Patterson(4) illustrates this position. It is important that the party claiming the relief or change of relief must have the same right from which either the first or the modified remedy may flow. Subsequent events in the course of the case cannot be constitutive of substantive rights enforceable in that very litigation except in a narrow category (later spelt out) but may influence the equitable jurisdiction to mould reliefs. Conversely, where rights have already vested in a party, they cannot be nullified or negated by subsequent events save where there is a change in the law and it is made applicable at any stage. Lachmeshwar Prasad Shuku v. Keswar Lal Chaudhuri(1) falls in this category. Courts of justice may, when the compelling equities of a case oblige them, shape reliefs cannot rights- to make them justly relevant in the updated circumstances. Where the relief is discretionary, courts may exercise this jurisdiction to avoid injustice. Likewise, where the right to the remedy depends, under the statute itself, on the presence or absence of certain basic facts at the time the relief is to in ultimately granted, the Court, even in appeal, can take note of such supervening facts with fundamental impact. Venkateswarlu (supra), read in its statutory setting, falls in this category. Where a cause o action is deficient but later events have made up the deficiency, the Court may, in order to avoid multiplicity of litigation, permit amendment and continue the proceeding, provided no prejudice is caused to the other side. All these are done only in exceptional situations and just cannot be done if the statute, on which the legal proceeding is based, inhibits, by its scheme or otherwise, such change in cause of action or relief. The primary concern of the court is to implement the justice of the



legislation. Rights vested by virtue of a statute cannot be divested by this equitable doctrine (See Chokalingam Chetty: 54 Mad.L.J. 88 P.C.). The law stated in [Ramji Lal v. the State of Punjab](#)(2) is sound:

"Courts do very often take notice of events that happen. subsequent to the filing of suits and at times even those that have occurred during the appellate stage and permit pleadings to be amended for including a prayer for relief on the basis of such events but this is ordinarily done to avoid multiplicity of proceedings or when the original relief claimed has, by reason of change in the circumstances, become inappropriate and not when the plaintiff's suit would be wholly displaced by the proposed amendment (see Steward v. The North Metropolitan Tramways Company (1885) 16 Q.B.D. 178) and a fresh suit by him would be so barred by limitation."

One may as well add that while taking cautious judicial cognizance of 'post-natal' events, even for the limited and exceptional purposes explained earlier, no court will countenance a party altering, by his own manipulation. a change in situation and plead for relief on the altered basis.

8. In view of the aforesaid authoritative pronouncement of the Apex court, I see no reason to set-aside the impugned order dated 17.10.2025. Therefore, the present petition is dismissed, being devoid of merits.

9. Pending application(s), if any, also stand disposed of.

(Bipin Chander Negi)
Judge

November 28th, 2025
Susheel