

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CIVIL MISCELLANEOUS JURISDICTION No.417 of 2020**

Prabhat Sharma S/o Awadh Bihari Sharma, R/o Village Barkagaon Tole  
Mishrawalia, P.S. Bhagwanpur, District- Siwan.

... .. Petitioner

Versus

Pushpa Kumari W/o Prabhat Sharma, D/o Sri Suryadeo Thakur, R/o Village-  
Barkagaon Tole, Mishrawalia, P.S.- Bhagwanpur, District- Siwan, At present  
resident at Village- Shantinagar, Chapra, P.S. Chapra, District- Saran.

... .. Respondent

**Appearance :**

|                      |   |                         |
|----------------------|---|-------------------------|
| For the Petitioner/s | : | Mr.Gajendra Kumar Singh |
| For the Respondent/s | : | Mr.Sarva Deo Singh      |
|                      |   | Mr. Sanjay Kumar        |
|                      |   | Mr. Rajesh Kumar        |

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR  
PANDEY**

ORAL ORDER

4      02-03-2022                      Heard learned counsel for the petitioner as well as  
learned counsel for the respondent.

The present petition has been filed to quash the order dated 04.02.2020 passed by the Principal Judge, Family Court Siwan, whereby the learned Principal Judge has rejected the petition under Order VI Rule 17 filed on behalf of the petitioner to amend his plaint.

The impugned order reveals that the Divorce Case No. 123/2012 has been filed by the petitioner and he sought for the amendment of plaint under Order VI Rule 17. The sought amendment is that as per opinion of the doctors, the respondent is incapable of being mother and she has also developed brain tumor. This is the fact which was sought to be inserted into the



plaint by way of amendment. The learned Principal Judge, Family Court has mentioned in his order that the petition has been filed at belated stage.

Learned counsel for the petitioner, by relying upon the decision of Hon'ble Supreme Court reported in 2006 (4) *Supreme Court Cases* 385, has submitted that the purpose of inserting the provisions of amendment is for determination of real question in controversy.

In my view this decision is not helpful to the petitioner since the amendment sought is not an amendment which is necessary for adjudication of real question. The amendment that the wife has brain tumor and that she is incapable of becoming mother, are not the grounds for a divorce enumerated under Section 13 of the Hindu Marriage Act, 1955.

I do not think any reason to interfere with the impugned order. Accordingly, this miscellaneous petition is dismissed.

**(Nawneet Kumar Pandey , J)**

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