

IN THE HIGH COURT OF ORISSA AT CUTTACK
C.M.P. No.357 of 2022

Sanjaya Kumar Mishra

....

Petitioner(s)
Mr.D.Mohanty, Advocate

-versus-

Smt.Kabita Mishra

....

Opp.Party(s)

CORAM:
JUSTICE BISWANATH RATH

ORDER
05.05.2022

Order No.

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1. Heard learned counsel appearing for the petitioner.
2. Undisputedly the proposed amendment involved at the instance of the husband in a Civil Proceeding for divorce at the instance of the wife initiated in the year, 2019. Amendment application was filed by the husband in April, 2022. Hearing the counsel for the petitioner admittedly the application for amendment by husband was brought after the wife closes her evidence. Taking this Court to the proposed amendment at page-34 of the brief, reading through the written statement objections of the husband, learned counsel appearing for the petitioner attempted to satisfy the Court that the proposed amendment is nothing but by way of clarification to the facts already disclosed in the written statement. Learned counsel for the petitioner however has no answer as to the satisfaction of due diligence in bringing such attempt in an endeavour in 2022 and much after filing of written statement. Looking to the nature of proposed amendment bringing certain serious allegation against the wife after the wife closes her evidence, on the first ground of attack to the impugned order, this Court finds these facts since are already available, there is no need in bringing clarification. Parties are to satisfy such facts through evidence. This Court while declining to entertain such challenge but coming to the second ground of attack, looking to the claim of delay in bringing such amendment

through application at Annexure-4 finds there is definite failure in discharge of due diligence by the husband. Looking to the nature of pleading attempted to be brought by amendment, it is wholly unbelievable that a husband could come to take such plea three years after receipt of the complaint involving Civil Proceeding and even two years after filing of the written statement. There is serious failure in satisfying on the aspect of due diligence. In the circumstance, this Court finds the application of this nature ought to be rejected. This Court further also not inclined get into the impugned order. Consequently, the Civil Miscellaneous Petition stands dismissed.

(Biswanath Rath)
Judge

Sks

