

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4089 OF 2022

**SANDIP BABURAO SADEGAONKAR
VERSUS
ASHWINI SANDIP SADEGAONKAR**

...
Advocate for Petitioners : Mr. Milind K. Deshpande

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 08th APRIL, 2022

PER COURT :

1. The petitioner in this petition challenges the order passed below Exhibit-17 in Petition No.A-354/2020, by the learned In-Charge Principal Judge, Family Court, Aurangabad, thereby allowing the application filed by respondent wife for amendment in the pleadings of the written statement.

2. The petitioner has filed the said petition under Section 13 (i-a) of the Hindu Marriage Act, 1955 seeking divorce from the respondent wife. The wife appeared and resisted the claim by filing written statement. Issues were framed by the Family Court on 04-09-2021 to the effect that “whether the petitioner proves that respondent has, after solemnization of the marriage, treated him with cruelty as contemplated under Section 13(1)(i-a) of the Hindu Marriage Act,

1955” and “whether the petitioner is entitled for a decree of divorce”.

3. The respondent thereafter filed application seeking amendment in the written statement contending that provisions of Order 8 Rule 3, 4 and 5 of the Code of Civil Procedure are not fully complied with in the written statement. Moreover, the case of the respondent is not specifically put forth. If the contentions, statements and allegations made in the petition are evasively and not specifically denied by putting forth the respondent's defence, it would be treated to be admitted by the respondent. In that view of the matter, the respondent proposed amendment in her written statement. Family Court has allowed the said application and permitted respondent to amend the written statement. Hence, the present petition.

4. Heard the learned advocate for petitioner. He has assailed the impugned order contending that a totally new case is sought to be introduced by the respondent by the proposed amendment in the written statement, which the Family Court should not have allowed.

5. Perusal of the documents placed on record and the impugned order reveals that the trial has not yet commenced. The Family Court has observed that the proposed amendment will not bring any change in the defence. The petitioner has not opened his evidence

and therefore, he will get opportunity to put forth his case in the evidence. Therefore, there would not be any prejudice to the petitioner. The Family Court was of the view that proposed amendment appears to be necessary for adjudication of the dispute between the parties and to determine the real question in controversy.

6. It is a settled legal position that the application for amendment should be liberally allowed. In view of the fact that the Family Court has exercised its discretion in favour of the respondent on the ground that the proposed amendment would help the Family Court in deciding the real controversy between the parties and no prejudice is likely to be caused to petitioner if the amendment is allowed, this Court is of the considered view that the petitioner has failed to make out any case to warrant interference in the impugned order in extraordinary writ jurisdiction. The writ petition being devoid of merits is dismissed.

(NITIN B. SURYAWANSHI, J.)