

Sayali Upasani

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.2337 OF 2022
IN
PARSI SUIT NO.11 OF 2021**

Huzan Zervan Lakdawalla ...Applicant/
(Nee Huzan Jemi Jijina) Plaintiff

In the matter between

Huzan Zervan Lakdawalla ...Plaintiff
(Nee Huzan Jemi Jijina)

Vs

Zervan Nauzer Lakdawalla ...Defendant

Mrs. Nityoah S. mehta a/w Ruchi Turakhia i/b Nityoah Suneel
& Associates, for Plaintiff

Mr. Ashwin Shete a/w Ms. Juhi V a/w Shanavi Punamiya i/b
Jayakar & Partners, for Defendant

CORAM N. J. JAMADAR, J.

DATED 5th SEPTEMBER, 2022

PC:-

1. Heard the learned Counsels for the parties.
2. The plaintiff has taken out this application seeking leave to amend the plaint in accordance with the schedule appended to the plaint.
3. The substance of the application is that during the pendency of the suit, there has been change in circumstances especially as regards the position of the defendant and the resultant income of the defendant.

4. The plaintiff, therefore, seeks to bring the subsequent events on record.

5. An affidavit-in-reply is filed on behalf of the defendant. The defendant has contested the prayer for amendment.

6. Evidently, the proviso to Rule 17 of Order VI does not come into play as the trial has not commenced. In any event, the amendments which the plaintiff seeks to incorporate, are in the nature of the subsequent events which bear upon the question in controversy. The Court is required to take cognizance of the subsequent events which bear upon the rights and liabilities of the parties. The proposed amendment, therefore, has no potentiality of prejudice to the defendant. In any case the defendant would get an efficacious opportunity to meet the case which the plaintiff seeks to assert by way of amendment.

7. Hence, the application stands allowed in terms of prayer Clause "a".

8. The plaintiff shall amend the plaint in accordance with the schedule appended to the application within a period of three weeks.

9. Amended copy of the plaint be served on the defendant within a week thereafter.

10. The defendant is at liberty to file an additional written statement within four weeks of being served with the amended copy of the plaint.

11. Application stands disposed.

[N. J. JAMADAR, J.]