

Item-9.	27-03-2023	FAT 315 of 2020 CAN 2 of 2022 CAN 3 of 2022
sg	Ct. 8	Prasenjit Mondal Versus Moumita Mondal

Mr. Ankit Agarwala, Adv. Ms. Alothiya Mukherjee, Adv. Ms. Sonal Agarwal, Adv.	...for the appellant
Mr. Niladri Sekhar Ghosh, Adv. Ms. Sompurna Chatterjee, Adv. Mr. Sourav Mondal, Adv.	...for the respondent

The application for amendment of the plaint and additional evidence, at the appellate stage, are taken up together for consideration along with the appeal.

Considering the nature of the averments made in paragraph 13 of CAN 3 of 2022 and the additional evidence attempted to be adduced to prove infidelity and cruelty, in our view, if proved, may result in a decree being passed in favour of the appellant. The nature of amendment would also require addition of party. The appellant has made specific allegations against one Uday Malik.

Under such circumstances, we dispose of the appeal by giving an opportunity to the appellant to apply before the Trial Court for amendment of the plaint and to bring on record evidence in support thereof.

The Trial Court shall allow the application for amendment as it appears that the appellant did not have the required information at the time when the suit was filed and now the said allegation may be relevant in deciding the suit for proper adjudication. The respondent shall be at liberty to file additional written statement dealing with the proposed amendment within

two weeks from the date of allowing amendment.

Insofar as the additional evidence is concerned, the Trial Court shall decide the issue of admissibility of the said evidence in accordance with law.

The Trial Court, on consideration of the evidence to be adduced by the parties consequent upon the amendment to the plaint and the fresh evidence that the parties may be at liberty to adduce in the matrimonial proceeding, shall write the judgement afresh being uninfluenced by the earlier judgment.

The parties shall be entitled to adduce so much of evidence that are required in support of the additional pleadings.

The evidence already on record shall be considered along with the fresh evidence while re-writing the judgment.

The impugned judgment is, accordingly, set aside with the aforesaid observation.

The appeal and the connected applications are disposed of accordingly.

Since no affidavit-in-opposition is filed, all allegations made in the application are deemed to have been denied.

(Uday Kumar, J.)

(Soumen Sen, J.)