

Sl.28
08.08.2025
Court No.6
BP

C.O. 2866 of 2025

Bani Naskar Seal
-versus-
Naba Kumar Seal

Mr. Dyutiman Banerjee
Mr. Krishnendu De
Mr. Vishal Mallick
... for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the wife and is directed against an order being no.41 dated 23rd May, 2025 passed by the learned Additional District Judge, 1st Court at Serampore, Hooghly in Matrimonial Suit No. 677 of 2016.

By the order impugned the application under Order 8 Rule 9 of the Code of Civil Procedure stood rejected.

Mr. Banerjee, learned advocate appearing for the petitioner submits that the petitioner prayed for leave to file an additional written statement for incorporating certain facts which are relevant for the purpose of deciding the instant suit. He submits that such facts could not be incorporated at the time of filing of the written statement as the same was filed hurriedly. He further submits that the learned trial judge rejected the said application on the ground that in the application for leave to file additional written statement the points which

the petitioner wants to add by filing the additional written statement was not stated. He submits that the proposed additional written statement was also filed along with such application.

The husband/opposite party herein filed a suit for divorce by dissolving the marriage between the parties to the suit which took place on May 4, 1996. In the plaint it has been stated that the petitioner became suspectful regarding one co-teacher of the opposite party at Manirampore Primary School for which the behavior of the petitioner herein became unbearable and the petitioner also started assaulting the opposite party and did not supply proper food to the family members. It was further stated in the plaint that the petitioner became violent at times and voluntarily left her matrimonial home with all her belongings on September 2, 2015.

The petitioner herein is contesting the said suit by filing a written statement. In paragraph 6 of the said written statement the petitioner denied the aforesaid allegations by stating that the petitioner never suspected the husband in any manner. In the proposed additional written statement the petitioner sought to incorporate the facts leading to the marriage between the parties and also that after the opposite party joined Manirampore Madhabpur Primary School as teacher-in-charge the opposite party along with a co-teacher of the said school spent times together at various places.

After going through the averments made in the written statement and the proposed additional written statement this Court finds that though in the original written statement it was the specific case of the petitioner that she did not suspect the opposite party with regard to the relationship between the opposite party and a co-teacher of the primary school but sought to make out a case that the opposite party was having certain affairs and relationship with the co-teacher of such school. Thus it appears that the petitioner after closure of the evidence of the husband /opposite party herein sought to make out a new case which is not only inconsistent but contradictory and mutually destructive with the case made out in the original written statement. That apart the petitioner filed the application praying for incorporation of certain facts by filing an application under Order 8 Rule 9 of the Code of Civil Procedure in order to bypass the proviso to Order 6 Rule 17 of the Code of Civil Procedure which to some extent limits the power of the Court to incorporate certain facts by way of amendment after the commencement of trial. That apart the facts sought to be incorporated cannot be said to be necessary in a suit filed by the husband on the ground of cruelty.

For all the reasons as aforesaid, this Court is not inclined to interfere with the order impugned rejecting the prayer for leave to file additional written statement.

Accordingly, C.O. 2866 of 2025 stands dismissed.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)