

ITEM NO.22                      Court 5 (Video Conferencing)                      SECTION IV-C

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 13251/2019

(Arising out of impugned final judgment and order dated 10-04-2019 in MP No. 441/2018 passed by the High Court Of M.P Principal Seat At Jabalpur)

VAIBHAV SAXENA

Petitioner(s)

VERSUS

PRIYA SAXENA @ RUCHI

Respondent(s)

( IA No. 85091/2019 - EXEMPTION FROM FILING O.T.)

Date : 07-03-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO  
HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s)    Mr. Niraj Sharma, AOR  
                                 Ms Vaishnavi Paliwa, Adv  
                                 Ms Mahima Sharma, Adv

For Respondent(s)    Mr. Sarad Kr. Singhania, Adv  
                                 Ms. Rashmi Singhania, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The petitioner filed a civil suit for dissolution of marriage in the year 2016 before the 1<sup>st</sup> Additional Principal Judge, Family Court, Bhopal. An application was filed under Order VI Rule 17 of the CPC for amendment of the plaint on the ground that certain important facts have not been stated. The application was dismissed by the trial Court on 21.12.2017. The order passed by the trial Court was upheld by the High

Court in the Order dated 10.04.2019, aggrieved by which, the petitioner has approached this Court. The trial Court refused to accept the submissions of the petitioner on the ground that new pleadings are sought to be produced which were within the knowledge of the petitioner since earlier.

It has been submitted by the learned counsel appearing for the petitioner, that written statement is yet to be filed and the courts below committed an error in not permitting the petitioner to amend the plaint which would not cause any prejudice to the respondent. Mr. Niraj Sharma, learned counsel appearing for the petitioner, relied upon the judgments of this Court in the State Of Bihar & Ors. Vs. Modern Tent House & Anr. [2017(8) SCC 567] and Mohinder Kumar Mehra Vs Roop Rani Mehra & Ors. [2018 (2) SCC 132] and argued that the application filed under Order VI Rule 17 CPC can be considered favourably before the commencement of the trial.

Mr. Sarad Kr. Singhania, learned counsel appearing for the respondent, supported the judgment of the Courts below. The ground for amendment of the plaint was that the earlier advocate who was appearing for the petitioner did not incorporate certain facts which was rightly not accepted by the trial Court.

After considering the submissions made on behalf of the parties, we are of the considered opinion that

the application filed by the petitioner under Order VI Rule 17 CPC to supplement the grounds which have already been taken at the time of filing of the plaint deserves to be allowed. However, as there was some delay in filing the application under Order VI Rule 17 CPC, the application stands allowed, subject to the petitioner paying cost of Rs.10,000/- to the respondent.

The Special Leave Petition stands disposed of accordingly. Pending application(s), if any, shall stand disposed of.

(Geeta Ahuja)  
Court Master

(Anand Prakash)  
Court Master