

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-06-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 2847 of 2026

1. Mumtaj Surya
D/o.P.V.Anandakrishnan, No.25, Rettai
Malai Srinivasan Pettai, Tirupathur
Town, Tirupathur District.

Petitioner(s)

Vs

1. Moodurai Poyyamozhi
S/o.Duraiswamy, 1/60, Moongil
Maduvu Village and Post, Penagaram,
Dharmapuri District

Respondent(s)

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PRAYER

To set aside the order dated 16.02.2026 passed in HMOP No.220/2022 by the Subordinate Judge, Tirupathur to hold that the petition under the Hindu Marriage Act is maintainable to direct restoration of HMOP no.220/2022 to file and disposal on merits within at time bound schedule and to pass such further orders as this Honble Court.

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For Petitioner(s): Ms. Mumtaj Surya (p-in-p)

For Respondent(s): Mr.P.Thamizh Vendan

ORDER

This Civil Revision Petition has been filed challenging the order dated 16.02.2026 passed in H.M.O.P. No.220 of 2022 on the file of the learned Subordinate Judge, Tirupathur, and seeking restoration of the said H.M.O.P. to the file for disposal on merits.

2. The learned counsel appearing for the petitioner submitted that the petitioner had filed H.M.O.P. No.220 of 2022 before the learned Subordinate Judge, Tirupathur, seeking dissolution of marriage under Section 13(1)(i-a) of the Hindu Marriage Act, 1955, on the ground of cruelty. The Trial Court, however, dismissed the petition holding that the petitioner had failed to establish that she professes the Hindu religion and, on the contrary, had denied belonging to Hinduism and had claimed that the marriage was not solemnised under any particular religion. Consequently, the Trial Court held that the provisions of the Hindu Marriage Act, 1955, were not applicable and dismissed the petition as not maintainable.

3. The learned counsel for the petitioner contended that the Trial Court arrived at the above conclusion without any acceptable material or evidence. According to the learned counsel, the question as to whether the marriage was solemnised by following Hindu rites and customs is a matter requiring evidence and could not have been decided at the threshold without conducting a full-

fledged trial. It was therefore submitted that the impugned order is liable to be set aside.

4. The petitioner and the respondent were present before this Court along with their respective counsel.

5. The respondent fairly admitted that he had married the petitioner and that they have a child, aged about 10 years, who is in the care and custody of the petitioner. He further admitted that, pursuant to the disputes between the parties, the petitioner had initiated maintenance proceedings, in which a compromise was entered into. Under the terms of the compromise, the respondent had agreed to pay a sum of Rs.9,000/- per month towards maintenance to the petitioner. However, it is admitted that the respondent has not complied with the maintenance obligation.

6. This Court is of the opinion that the Trial Court ought not to have dismissed the H.M.O.P. on the question of maintainability without affording the parties an opportunity to adduce evidence. Whether the marriage was solemnised in accordance with Hindu rites and ceremonies and whether the provisions of the Hindu Marriage Act, 1955, are applicable are mixed questions of fact and law which require adjudication on the basis of evidence. But the impugned order having been passed without such an exercise cannot be sustained. Accordingly, the order dated 16.02.2026 passed in H.M.O.P. No.220

of 2022 is set aside and the matter is remitted to the learned Subordinate Judge, Tirupathur, for fresh consideration. The Trial Court shall restore H.M.O.P. No.220 of 2022 to its file and dispose of the same afresh on merits, in accordance with law, after affording sufficient opportunity to both parties to let in oral and documentary evidence.

7. It is further made clear that the respondent shall continue to pay a sum of Rs.9,000/- per month towards maintenance to the petitioner in terms of the compromise arrived at between the parties. In the event of default in payment of the maintenance amount, the respondent shall not be permitted to prosecute or defend the proceedings until he complies with the order regarding payment of maintenance.

8. The Trial Court is directed to dispose of H.M.O.P. No.220 of 2022 as expeditiously as possible, preferably within a period of four (4) months from the date of receipt of a copy of this order.

9. With the above directions, the Civil Revision Petition stands allowed.
No costs. Consequently, connected miscellaneous petition, if any, is closed

25-06-2026

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To

1. The Subordinate Judge, Tirupathur.
2. The Section officer, High Court, High Court, Madras.

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T.V.THAMILSELVI J.
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