

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2026

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

CRP No. 3703 of 2026

1.S.Rajesh Kumar

2.Aiswarya Raj P.D

Petitioner(s)

Vs

Nill

Respondent(s)

PRAYER

To set aside the Fair and Final Order passed in IA No. 3 of 2026 in HMOP No 221/2026 on the File of the Subordinate Judge, Ambattur, Thiruvallur District.

For Petitioner(s): Mr.J.Titus Enock

ORDER

This Civil Revision Petition has been filed, challenging the impugned order dated 08.06.2026 passed by the Subordinate Judge, Ambattur, Thiruvallur District in I.A. No.3 of 2026 in HMOP No.221 of 2026, dismissing the application filed by the petitioners seeking for waiver of the waiting period of six months in hearing and disposing of HMOP No.221 of 2026 filed under Section 13(B)(2) of Hindu Marriages Act, 1955 for mutual consent divorce.



2. The Sub Court, Ambattur, under the impugned order, has rejected the petitioners' request by holding the directions issued by the Hon'ble Supreme Court in the case of Amardeep Singh vs. Harveen Kaur dated 12.09.2017 in Civil Appeal No.1115 of 2017 as mandatory and has dismissed the application filed by the petitioners by holding that since the parties are living separately only from November 2024, the first motion of the divorce petition was filed on 07.04.2026, which is not after 1½ years from the date of separation and therefore, it has not specified the condition for waiver of waiting period of six months as stipulated by the Hon'ble Supreme Court in the aforesaid order.

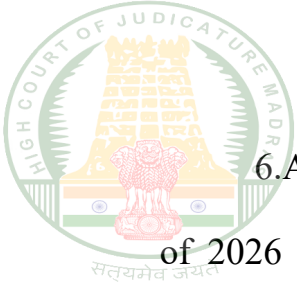
3. Learned counsel for the petitioners relies upon a latest decision of the Hon'ble Supreme Court in the case of Misha Somani vs. Rituraj Somani rendered in Civil Appeal No.801 of 2026 in SLP (c) No.3775 of 2026 and would submit that the decision rendered by the Hon'ble Supreme court in Amardeep Singh vs. Harveen Kaur, referred to supra, wherein conditions were imposed for seeking waiver, the said conditions are only directory and not mandatory. Therefore, he would submit that since the marriage between the petitioners has irretrievably broke down, the Sub Court, Ambattur ought to have considered the same and granted waiver as prayed for by the petitioners in I.A. No.3 of 2026 in HMOP No.221 of 2026.



4.Paragraph 21 of the decision relied upon by the learned counsel for the petitioners rendered by the Hon'ble Supreme Court in the case of Misha Somani vs. Rituraj Somani rendered in Civil Appeal No.801 of 2026 in SLP (c) No.3775 of 2026, referred to supra, is re-produced hereunder:

“21.The Family Court, as well as the High Court, have misconstrued the judgment of this court in Amardeep Singh v. Harveen Kaur (supra) and proceeded on the basis that this Court has held that the conditions specified in para 19 of the said judgment, quoted herein above, are mandatory and that the statutory waiting period of six months under Section 13-B(2) can only be waived if all the aforesaid conditions are fulfilled, including, in particular, the condition of separation of atleast one and half year's before making the motion for decree of divorce.”

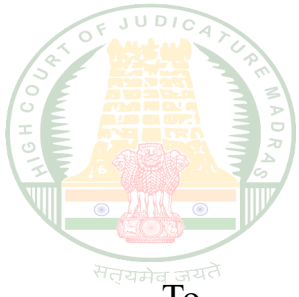
5.Since the Sub Court, Ambattur, Thiruvallur District, under the impugned order, has not taken into consideration the latest decision of the Hon'ble Supreme Court, referred to supra, the impugned order dated 08.06.2026 passed in I.A. No.3 of 2026 in HMOP No.221 of 2026 has to be set aside and the matter has to be remanded back to the Sub Court, Ambattur, Thiruvallur District for fresh consideration, on merits and in accordance with law in the light of the decision rendered by the Hon'ble Supreme Court in the case of Misha Somani vs. Rituraj Somani rendered in Civil Appeal No.801 of 2026 in SLP (c) No.3775 of 2026.



6. Accordingly, the impugned order dated 08.06.2026 passed in I.A. No.3 of 2026 in HMOP No.221 of 2026 on the file of the Sub Court, Ambattur, Thiruvallur District is hereby set aside by this Court and the matter is remanded back to the very same Court for fresh consideration on merits and in accordance with law. The Sub Court, Ambattur, Thiruvallur District is directed to dispose of I.A. No.3 of 2026 in HMOP No.221 of 2026 in the light of the decision rendered by the Hon'ble Supreme Court in Misha Somani vs. Rituraj Somani rendered in Civil Appeal No.801 of 2026 in SLP (c) No.3775 of 2026. After examining the petitioners in person, the Sub Court, Ambattur, Thiruvallur District is directed to pass the order in terms of this court's direction within a period of 15 days from the date of receipt of a copy of this order. With the above direction, this Civil Revision Petition is disposed of. No costs.

vga

09-07-2026



CRP No. 3703 of 2026



To
WEB COPY

- 1.The Subordinate Judge, Ambattur, Thiruvallur District.
- 2.The Section Officer, VR Section, High Court, Madras.



WEB COPY

CRP No. 3703 of 2026



ABDUL QUDDHOSE J.

vga

CRP No. 3703 of 2026

09-07-2026