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C.R.P.(PD).Nos.2806 and 3002 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).Nos.2806 and 3002 of 2021  
and CMP.No.21354 of 2021

C.R.P.(PD).Nos.2806 of 2021:

Kamatchi @ Gomathi

... Petitioner

vs.

M.Soni

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order passed S.R.1740 of 2021 in H.M.O.P.No.120 of 2016, on the file of the learned Judge, Family Court, Thiruvallur District dated 02.09.2021 as illegal, incompetent and without jurisdiction.

For Petitioner : Mr.V.Raghavachari  
Senior Advocate  
for Ms.V.Srimathi

For Respondent : No Appearance



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C.R.P.(PD).Nos.2806 of 2021:

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Kamatchi @ Gomathi

... Petitioner

vs.

1.M.Soni  
2.Santhosh Kumar Pandey,  
General Manager – HR & CE,  
Thai Summit Autoparts Indian Private Limited,  
Plot No.4, SIPCOT Industrial Park,  
Vallamvadagal, Sriperumbudur,  
Kanchipuram District – 602 105.

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order passed S.R.1739 of 2021 in H.M.O.P.No.112 of 2016, on the file of the learned Judge, Family Court, Thiruvallur District dated 02.09.2021 as illegal, incompetent and without jurisdiction.

For Petitioner : Mr.V.Raghavachari  
Senior Advocate  
for V.Srimathi

For Respondents : No Appearance



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### **COMMON ORDER**

These Civil Revision Petitions are filed challenging the order passed by the Family Court dismissing the applications filed by the petitioner/wife to strike off the defence of the respondent in her petition for restitution of conjugal rights and also application filed for issue of notice to garnishee calling upon him to pay the interim maintenance due to the petitioner.

2. Both the petitions filed by the wife were dismissed by the Court below mainly on the ground that main HMOP filed for restitution of conjugal rights by the wife and for divorce by her husband were ripe for arguments. Hence, the Family Court dismissed both the petitions even without numbering.

3. It is seen from the typed set of papers that the petitioner herein filed HMOP.No.120 of 2016 for restitution of conjugal rights. The respondent herein on his part filed HMOP.No.112 of 2016 for divorce. The



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petitioner herein filed an application for interim maintenance in

HMOP.No.112 of 2016 and the same was allowed by directing the respondent

to pay a sum of 4,000/- per month as interim maintenance. The respondent

failed to pay the interim maintenance as directed and hence the instant

application have been filed by the petitioner/wife seeking to strike off the

defence of the respondent in her petition for restitution of conjugal rights. The

petitioner also filed an application for issue of notice to garnishee calling upon

him to pay interim maintenance payable by the respondent/husband, as he

failed to comply with the directions issued by the Family Court to pay interim

maintenance to the petitioner/wife. She is entitled to file an application

seeking to strike off the defence raised by the husband. Likewise, the

petitioner is also entitled to issue notice to garnishee for ensuring payment of

maintenance amount. The Family Court ought not have dismissed these

applications even without numbering on the ground that the main original

petition is ripe for arguments. When respondent failed to comply with

direction issued by Court to pay interim maintenance, the Family Court ought

to have numbered the petitions and heard the parties on merits. Therefore, the

impugned orders in revisions are set aside and both revision petitions are



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allowed. The Family Court is directed to number the applications and dispose

of the same in accordance in accordance with law.

No costs.

Consequently, connected miscellaneous petition is closed.

**23.02.2024**

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

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To

The Family Court,  
Thiruvallur District.



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**S.SOUNTHAR, J.**

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**23.02.2024**