



C.R.P.No.2854 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.No.2854 of 2024

C.M.P.No.15178 of 2024

T.Selvaraj

...Petitioner

Vs

1.K.Mohanraj

2.M.Anusuya Devi

...Respondents

PRAYER:- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleased to set aside the fair and decreetal order dated 12.12.2023 made in I.A.No.21 of 2023 in H.M.O.P.No.246 of 2021 on the file of Sub Court, Udumalpet, Tiruppur District and to allow the above Civil Revision Petition

For Petitioner	: Mr.A.Sathishkumar
For R1	: Mr.S.Arjun
For R2	: Mr.P.Narayana Prasadh



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ORDER

The newly impleaded party has filed this Civil Revision Petition challenging the order passed in I.A.No.21 of 2023 in H.M.O.P.No.246 of 2021 on the file of the Sub Court, Udumalpet, in and by which he has been impleaded as second respondent in a petition for divorce filed by the second respondent herein.

2.The short facts which is necessary for disposing of the above Civil Revision Petition is herein below set out:-

The second respondent wife had filed H.M.O.P.No.246 of 2021 on the file of the Sub Court, Udumalpet seeking divorce on the ground of cruelty and desertion. In the petition she had alleged that her husband/first respondent was not engaged in any useful avocation and was not even carrying out agricultural activities on the lands belonging to him and on the contrary it was paternal uncle who was carrying on the activities in the said lands. In addition to the above he not only displayed abusive behaviour towards the second respondent/wife but also questioned her chastity. Ultimately, after one episode of physical assault on the second respondent/wife, the first respondent/husband had left the



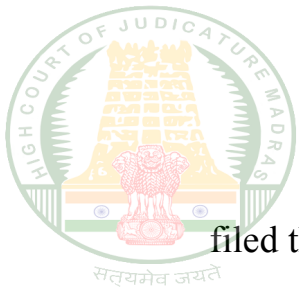
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home. Therefore she has come forward with the petition for divorce.

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3.The first respondent/husband contended that the second respondent/wife is insisting on setting up an independent home and ultimately on account of the pressure they had shifted to a rental house. He accused the petitioner of having an illicit relationship with his wife, the second respondent herein. Ultimately, the second respondent sought to have the marriage between herself and the first respondent dissolved.

4.Pending the main petition the first respondent had filed I.A.No.21 of 2023 seeking to implead the petitioner herein as second defendant in the suit. Despite the protest of the second respondent and the petitioner herein, the learned Subordinate Judge, Udumalpet, proceeded to allow the said application. The learned Judge relying upon a judgment of this Court in C.R.P.(MD).No.1305 of 2019 stated that where the husband accused wife of adultery then the adulterer has to be impleaded as the party to the proceedings and whether he is guilty of adultery or otherwise something that has to be proved during trial. Therefore, the learned Judge has proceeded to allow the application. Challenging the same, the newly impleaded party/petitioner herein has



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filed the present Civil Revision Petition.

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5.Heard the learned counsels on either side and perused the records.

6.The H.M.O.P has been filed by the wife on the ground of cruelty that husband has accused her of adultery. In the counter the husband speaks about the same, but has not filed any counter claim. However, an application has been filed to implead the petitioner as the third party. Therefore, the learned Judge has totally loss sight of the fact that the petition for divorce was not on the ground of adultery but filed by the wife on the ground of cruelty and desertion and in these proceedings the presence of third party is not required. The learned Judge has totally misdirected himself while passing the impugned order. Therefore, the Civil Revision Petition is allowed and the order passed in I.A.No.21 of 2023 in H.M.O.P.No.246 of 2021 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No



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Speaking Order/Non Speaking Order
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To

The Sub Court, Udumalpet, Tiruppur District.



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