



O.S.A.No.138 of 2025

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2025

CORAM :

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

**OSA.No.138 of 2025 and
CMP No.8460 of 2025**

1.V.P.Asha Shivago

.. Appellant

VS

1.T.Prakatheeswaran

2.K.A.Shivago

3.M/s.Viswas Flats Promoters Pvt Ltd
Represented by its Managing Director/Director
K.A.Shivago
No.18/22, 1st Floor,
New Corporation Shopping Complex
3rd Cross Street, R.A.Puram,
Chennai-600 028.

.. Respondents

Prayer: Appeal filed under Order XXXVI Rule 9 of Original Side Rules
and Clause 15 of Letters Patent to set aside order dated 26.03.2024 in
A.No.1412 of 2024 in C.S.No.109 of 2021.



O.S.A.No.138 of 2025

WEB COPY

For Appellant : Mr.P.T.Perumal

For Respondents : Mr.R.K.Ramaiah (for R1)

Mr.Vargees Amal Raj (for R2)
(Vakalat not filed)

JUDGMENT

(Delivered by C.KUMARAPPAN.,J.)

The plaintiff has filed the suit for recovery. The first defendant and third defendant are husband and wife.

2.The brief facts which are necessary for effective disposal of the present Original Side Appeal is as follows.

3.After entering appearance, the appellant's husband has filed a written statement disputing the plaint averment. After that, the appellant herein has filed a memo in January 2022 adopting the written statement filed by her husband. Now, after a period of two years, the appellant herein has come up with an application to eschew the adoption memo and also with the prayer seeking permission to file a separate written statement.

4.The learned single Judge after considering the submission of either side has ultimately dismissed the application.



O.S.A.No.138 of 2025

WEB COPY

5.We have heard Mr.P.T.Perumal, learned counsel for the appellant, Mr.R.K.Ramaiah, learned counsel for R1 and Mr.Vargees Amal Raj, learned counsel for R2.

6.The learned counsel for the appellant would vehemently submit that the appellant herein without knowing the contents of the written statement had filed an adoption memo, and that she has got a separate defence, and only if the adoption memo is eschewed, she may able to file a written statement. Hence, prayed to allow the instant appeal.

7.The said contention was strongly objected by the respondent.

8.The point for consideration in the present appeal is, whether the appellant herein can withdrew from the admission which had been made by way of an adoption memo which accepts the contents raised in the written statement.

9.It is settled principles of law, whenever an admission is made before the Court, it cannot be withdrawn. Further more having pleaded a specific defence in line with her husband, the appellant herein cannot withdrew all those admissions, as it would seriously prejudice the plaintiff. Apart from that it is the contention of the learned counsel for the respondent that the suit is now posted for defendant's side evidence.



O.S.A.No.138 of 2025

Therefore, at this stage, it is inappropriate on the part of the appellant herein to file such an untenable application. Therefore, we do not find any merits in the present Original Side Appeal.

10.Hence, this Original Side Appeal is dismissed. No costs.

Connected miscellaneous petition is closed.

[A.S.M., J] [C.K., J]
07.04.2025

Index:Yes/No
Speaking Order/Non-speaking order
Neutral Citation:Yes/No
vs

To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.



WEB COPY



O.S.A.No.138 of 2025

DR. ANITA SUMANTH.,J.
and
C.KUMARAPPAN.,J.

VS

OSA.No.138 of 2025 and
CMP No.8460 of 2025

07.04.2025