

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **14-02-2025**

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

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CRP NO. 3568 of 2023

and

CMP.No.22332 of 2023

Baba Natarajan Prasad

Petitioner(s)

Vs

M.Revathi

**D/o.Marimuthu, 10 Sriram Gardens, Maharani Avenue,
Vadavalli, Coimbatore-641041**

Presently residing at Mrs.M.Revathi, C/o.P.Gunasekaran,

**14/86 Sottaiyur, Wettamangam West, Karur District-
639117**

Respondent(s)

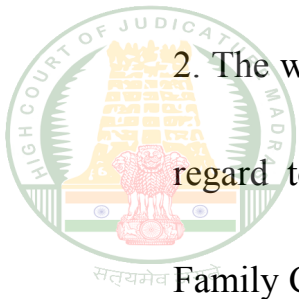
Prayer: Civil Revision Petition filed under 227 Constitution of India, praying to set aside the order dated 14.06.2023 passed in I.A.No.4 of 2023 in HMOP.No.84 of 2019 on the file of the Additional Principal Family Court, Coimbatore.

For Petitioner(s) : Mr.H.S.Mohamed Rafi,

For Respondent(s): Mr.P.Jagadeesan

ORDER

The present Civil Revision Petition is filed challenging the order passed in I.A.No.4 of 2013 in HMOP.No.84 of 2019.



2. The wife filed an application in I.A.No.4 of 2013 seeking for an amendment

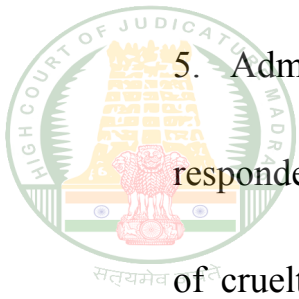
regard to dates in the original HMOP which was pending before the Principal Family Court, Coimbatore in HMOP No.84 of 2019. The Trial Court while allowing

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the application filed by the wife has held that the amendment sought for with regard to desertion which was not available at the time of filing the divorce application.

3. The amendment application has to be considered in a liberal sense to meet the ends of justice. However, if the amendment is sought to change the nature and character of the suit, then, the amendment application shall be considered as not maintainable.

4. The wife filed the divorce petition in HMOP No.84 of 2019 on the ground of cruelty and while pending the petition, she made an application in I.A.No.4 of 2013 to amend the prayer for desertion. The respondent/wife contended before the trial Court that she did not know the exact date on which her husband left matrimonial home (i.e.,) exact date of desertion was not available to the respondent herein while approaching the court below. Taking into consideration of the said fact, the trial Court had allowed the amendment petition. Challenging the same, the present Civil Revision Petition is filed by the husband.



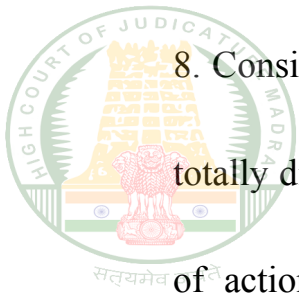
5. Admittedly, there is a dispute between the petitioner/husband & respondent/wife. When the wife has filed the divorce application under the ground of cruelty, now filing an application to amend and include the clause as one of desertion cannot be entertained.

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6. Learned counsel for the revision petitioner would contend that it is not only an afterthought to make the amendment and it is only to protract the proceedings. It is further contended that when the wife was not aware of the date of desertion at the time of filing the HMOP petition, it is unacceptable and unbelievable theory propounded by the respondent herein.

7. It is not in dispute that the amendment application has to be considered liberally as it will meet the ends of justice between the parties. This Court cannot lose its sight while taking note of the liberal approach should be considered, however, if an amendment application is filed and if such amendment application is

allowed, the nature and character of the suit is going to be haunted, then, such amendment cannot be entertained.



8. Considering the said fact, the HMOP which was filed on the ground of c

totally different from the present cause of action as desertion, as two different cause

of action cannot be invoked in the divorce application. If such amendment is

allowed, certainly it will affect the nature of the suit.

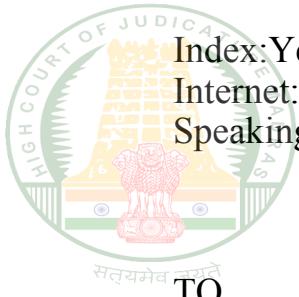
9. Apart from the said fact, this Court cannot ignore the factum that the wife had suffered conviction in a case instituted by the husband which was confirmed by the Hon'ble Supreme Court in SLP.(Crl)No.11461 of 2022 dated 15.07.2024.

10. In view of the above discussions, the order passed by the trial Court in I.A.No.4 of 2013 in HMOP.NO.84 of 2019 dated 14.06.2023 is set aside.

11. In the result, this Civil Revision Petition is allowed. The main petition for divorce is of the year 2019, this Court directs the Family Court, Coimbatore to dispose of the main case as expeditiously as possible. No costs. Consequently connected miscellaneous petition is closed.

14-02-2025

msv



Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order



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The Additional Principal Family Judge, Coimbatore.



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N.SENTHILKUI



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