



CRP.No.5682 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5682 of 2025 and

CMP.No.28387 of 2025

Ramakrishnan

... Petitioner

Vs.

Vidya

...Respondent

PRAYER : Civil Revision Petition filed Article 227 of Constitution of India, praying to set aside the Fair and Decretal order dated 26.08.2025 made in IA No.1 of 2025 in HMOP No.76 of 2023 on the file of Sub Court, Harur Dharmapuri District and to allow the above CRP.

For Petitioners : Mr.C.Prabakaran

ORDER

The Civil Revision Petition is filed challenging the order passed by the



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Trial Court dismissing the petition filed by the petitioner seeking leave of the Court to withdraw the main original petition with liberty to file fresh OP for divorce on the same cause of action.

2. The petitioner/husband filed a petition for divorce against respondent/wife in HMOP.No.76 of 2023 on the grounds of cruelty and desertion. When the OP is posted for final hearing, the petitioner herein filed instant application seeking leave of the court to withdraw the main original petition with liberty to file fresh OP on the same cause of action. The said petition was dismissed by the trial court. Aggrieved by the same, the petitioner has come before this court.

3. The learned counsel for the petitioner submitted that in the main OP filed by the petitioner, certain material facts which will have a bearing in the final outcome of the OP have not been mentioned. Therefore, the petitioner filed instant application. The trial court, without appreciating the averments raised in the affidavit filed in support of the petition, dismissed the application.



Aggrieved by the said order the petitioner has come by way of this revision.

4. A perusal of the affidavit filed in support of the petition to withdraw the main OP would indicate that petitioner had stated that he instructed his earlier counsel that all material facts necessary for drafting OP, however, he failed to mention certain material facts. Without verifying the same, he signed the main OP. In order to include the material facts which have not been included in the pleadings, the petitioner sought for withdrawal of the OP with liberty to file a fresh OP.

5. After preparation of main OP against the respondent, the petitioner verified the same and signed. Therefore, he cannot be allowed to say that without verifying the facts mentioned in the OP, he signed the pleadings. If this kind of averments are accepted, then every client will contradict their own pleadings. Taking into consideration the said fact, the trial court rightly rejected the petition seeking leave to withdraw the main OP. The petitioner has not pointed any formal defect in the original petition filed by him. In order to



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fill up lacunae in the pleadings or omission in the pleadings, he cannot be permitted to withdraw the OP. The essential ingredients of Order 23 Rule 3 of CPC have not been satisfied in this case. Therefore, there is no error in the order impugned in this revision. Accordingly, the Civil Revision Petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes / No

Internet : Yes / No

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To

The Sub Court, Harur Dharmapuri District

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