



C.R.P.(MD) No.788 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2026

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(MD) No.788 of 2026

Vanitha

... Petitioner

vs.

Vijayakumar

... Respondent

PRAYER: Petition filed under Article 227 of the Constitution of India, to direct to take on file and number the I.A. in the return order dated 11.03.2026 in unnumbered I.A.No..... of 2026 in HMOP.No.152 of 2019 on the file of the learned Subordinate Judge, Usilampatti.

For Petitioner : Mr.V.N.Arjun

ORDER

This Civil Revision Petition is filed for a direction to number the unnumbered I.A.No..... of 2026 in HMOP.No.152 of 2019 pending on the file of the learned Subordinate Judge, Usilampatti.



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2.The Civil Revision Petitioner is the wife. The husband has initiated proceedings invoking Section 13(1) (1-a) (1-b) of the Hindu Marriage Act, 1955, on the file of the learned Subordinate Judge at Usilampatti.

3.Pending HMOP, the wife took out an application for interim maintenance in I.A.No.34 of 2020. The said application was allowed by the Court, calling upon the husband to pay a sum of Rs.7,000/- per month from 11.11.2020 and further to remit a sum of Rs.3,000/- towards litigation expenses.

4.The petitioner, pleading that the husband has not paid the maintenance amount regularly and that an amount of Rs.2,97,000/- is in arrears, filed an application for a direction to the husband to pay the aforesaid amount. In default, she sought orders to strike off the divorce petition.

5.The learned Judge had returned the petition stating that the remedy for the petitioner is to file an Execution Petition and not seek strike off the petition. Challenging the same, the Revision.



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WEB COPY 6.I heard Mr.V.N.Arjun for the petitioner.

7.A perusal of the paper shows that the learned Judge has not considered the power of a Court dealing with matrimonial proceedings. The purpose of ordering maintenance pending litigation is to enable the beneficiary of such an order to sustain himself/herself during the litigation and also to defend the same. In case, a party, who has been called upon to pay the maintenance, does not pay the amount, the Court retains in itself the power to stay the main proceedings and direct the person liable to pay the maintenance to comply with the order and to pay the arrears. If despite, the direction given the default continues, the Court has the power to strike off the defense or even dismiss the petition for default till the order of maintenance is complied with (see, **Hema V. Parthesarathy, 2002 (4) L.W. 839**). To call upon a party to engage in another round of litigation by filing an Execution Petition ignores this inherent power of the Court to enforce its orders.

8.In the light of the above discussion, the Civil Revision Petition is ordered. There shall be a direction to the learned Subordinate



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Judge at Usilampatti to number the application filed for a direction to the husband to pay the arrears, in default, to strike off the divorce petition. Till the time the husband clears the arrears in terms of IA.No. 34 of 2020, the Court shall not proceed with further enquiry in the divorce proceeding. No costs.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
mm

18.03.2026

Note :

- i) Issue order copy on 24.03.2026;***
- ii) The original of the return petition should be given to the counsel for the petitioner after making usual endorsement.***

To

The Subordinate Judge, Usilampatti.



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V. LAKSHMINARAYANAN, J.

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