



OP No. 445 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-08-2025

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THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

OP No. 445 of 2021

and

A.No.4899 of 2024

Hannah Jayapriya

Petitioner(s)

Vs

Saravana Raja

Respondent(s)

For Petitioner(s): Mr.J. Saravana Vel

For Respondent(s): Mr.P.G.Thiyagu

ORDER

The matter had been remitted back to this Court by the learned Master seeking for clarification on the objections raised by the learned counsel appearing for the respondent.



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2. The learned counsel appearing for the respondent would submit that the Original Petition itself was disposed of by recording the joint memo of compromise as had been entered between the parties. However, on the allegation that the respondent had not complied with the terms of the compromise, the petitioner had filed an application to modify the order. Therefore, he would submit that the proof affidavit filed by the petitioner in GWOP cannot be entertained as this Court had only ordered recording of evidence in the application filed by the petitioner to modify the order. Therefore, he would contend that only with regard to evidence subsequent to the consent order passed in the instant OP evidence could be let in.

3. Countering his arguments Mr.J.Saravanel, learned counsel appearing for the applicant/ petitioner would submit that the in the application the applicant had not only raised the ground of violation of the terms of the agreement, but, also raised various other grounds as raised in the OP. He would submit that for a modification of the order, the applicant/ petitioner is entitled to



let in evidence of the facts in support of his claim and the petitioner cannot be restricted to give evidence in a particular manner. Therefore, he would pray this

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Court to over rule the objections raised by the respondent and direct the Master to record evidence.

4. I have considered the submissions made by the learned counsel on either side.

5. A learned Single Judge of this Court already had issued a direction as to how evidence could be recorded when objections have been raised by the other side in the judgment made in *C.S.No.625 of 2019* dated *15.12.2023*, the same had been reiterated by this Court in *C.S.No.237 of 2022* dated *29.07.2025*, directing the Registry also to circulate the said judgment to the learned Master.

6. Admittedly, the Original Petition had been disposed of in terms of the settlement that had been arrived at between the parties, which had now been sought to be revisited by the petitioner. As rightly pointed out by the learned

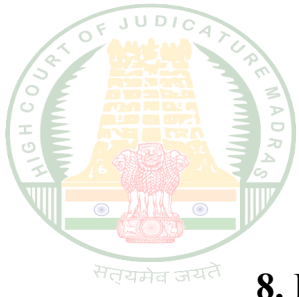


counsel appearing for the petitioner/ applicant various grounds have been raised for seeking modification of the order passed in this instant OP. Further when a

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witness leads in evidence atleast in chief, the witness cannot be restricted to only place the facts to the convenience of the other side. It would be open to the witness to depose in the manner he wants and a right to the other side is always available to object for recording of the question put to the witness or the statement made by the witness. Such an objection need not hinder the learned Master from recording the evidence. He shall proceed to record the objections raised by the other side and also the answer given by the witness. Such recording can be adjudicated during the final hearing in the case.

7. In such view of the matter, the case is relegated back to the learned Master. The learned Master shall continue to record evidence of the applicant/ petitioner and if any objection is raised on the side of the respondent, the objection shall also be recorded and also record the answer given by the witness. The respective parties are at liberty to substantiate their objections at the time of the arguments in the application.



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8. List the matter before the learned Master on 18.08.2025.

13-08-2025

dsa

To

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Guduvanchery Taluk, Chengalpet
District.



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K.KUMARESH BABU J.

dsa

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