

APHC010150512025



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3332]

PRESENT:THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION NO: 2076/2025

Between:

1.INAGANTI LAKSHMI NARASIMHA REDDY, S/O.VENKA REDDY, AGED ABOUT 40 YEARS, OCC PRIVATE EMPLOYEE, R/O.RAPARLA, MACHAVARAM VILLAGE, N.G. PADU MANDAL, PRAKASAM DISTRICT, PRIVATE EMPLOYEE PRESENTLY RESIDING AT D.NO.5-3-40, BJP OFFICE ROAD, FLAT NO.205, VRUASHABHARI TOWERS, KUKATPALLY, HYDERABAD - 500 072, TELANGANA STATE.

...PETITIONER

AND

1.INAGANTI AMRUTHA SAVITHRI, , W/o.Lakshmi Narasimha Reddy, D/o.Gadiyam Satyanarayana Reddy, Aged about 40 years. Flat No.401, Prakasam Towers, Near Babu Rao Municipal Park, R/o. Santhapeta, Ongole, Prakasam District.

...RESPONDENT

Petition under Article 227 of the Constitution of India,praying that in the circumstances stated in the grounds filed herein,the High Court may be pleased toBeing aggrieved by the Order dt 16.10.2024 passed in C.F.R. No.1515 of 2024 (I.A. No. 444 of 2024) in Unnumbered H.M.O.P. on the file of the court of Learned Additional Civil Court (Senior Division), Ongole,

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased

pleased to condone the delay of [110] days in representing the revision in CRP No. 2076 of 2025 and to pass

Counsel for the Petitioner:

1.NIMMAGADDA REVATHI

Counsel for the Respondent:

1.AYESHA AZMA S

RESERVED ON 31.03.2026

PRONOUNCED ON 29.04.2026

UPLOADED ON 29.04.2026

ORDER

This Civil Revision Petition is filed questioning the legality and correctness of the order dated 16.10.2024 passed in I.A.No.444 of 2024 in unnumbered H.M.O.P. by the learned Additional Civil Judge (Senior Division), Ongole.

2. The brief facts of the case are that the petitioner/husband filed H.M.O.P. vide CFR No.1515 of 2024 under Section 13(1)(1a)(1b) of the Hindu Marriage Act, 1956 seeking divorce from the respondent/wife. The learned Additional Civil Judge (Senior Division), Ongole rejected the same under Order-VII, Rule-11 (d) of Code of Civil Procedure, in view of bar under Order IX Rule-9 of CPC on the ground that earlier, the petitioner filed divorce petition vide HMOP No.27 of 2015 and the same was dismissed for default on 05.06.2018 and restoration petition filed vide I.A.No.607 of 2018 was also dismissed on 13.08.2020 and therefore, the petitioner is debarred from filing fresh petition on the same cause of action. The said rejection order was assailed in this Civil Revision Petition.

3. Heard Ms. Nimmagadda Revathi, learned counsel for the petitioner, and Ms.Ayesha Azma, learned counsel for respondent.

4. Ms.Nimmagadda Revathi, learned counsel for petitioner, while reiterating the grounds of the Civil Revision Petition would contend that the present divorce petition is based on new and subsequent cause of action, however the learned trial Judge erred in rejecting the same. She would further contend that the subsequent event that had taken place after dismissal of earlier divorce petition for default would make fresh cause of action for seeking divorce on the ground of cruelty and further the present divorce petition did contain a specific averment that respondent/wife had subjected him to cruelty after dismissal of earlier petition and therefore, since the present divorce petition has been founded on a different cause of action cannot be said to be barred under Order-IX, Rule-9 CPC, however the learned trial Judge upon misconception of facts of the case rejected the petition, which is unsustainable and is liable to be set aside. Accordingly, prayed to allow the Civil Revision Petition.

In support of her contentions, the learned counsel for the petitioner placed reliance on ***Sinnamani and another v. G.Vettivel and others***¹ and orders dated 02.01.2025 passed in Civil Revision Petition No.1447 of 2024 of High Court of Telangana.

¹. 2012 AIR SC 2372

5. On the other hand, Ms. Ayesha Azma, learned counsel for respondent, contended that a perusal of the pleadings of the present divorce petition would clearly indicate that the same has been filed on the self same cause of action on which the earlier divorce petition was filed, which was dismissed for default and therefore, the same is hit by Order-IX, Rule-9 of CPC and the learned trial Judge had rightly rejected the petition under Order-VII, rule-11(d) of CPC. She would further contend that the order of the learned trial Judge is justified and there is no illegality nor legal infirmity so as to be interfered with and the Civil Revision Petition being lack of merit deserves dismissal. Accordingly, prayed to dismiss the Civil Revision Petition.

6. Perused the material available on record and considered the submissions made by learned counsel for the parties.

7. The divorce petition earlier filed by the petitioner was dismissed for default and his attempts to get it restored met with failure.

8. The earlier as well as the present divorce petitions were filed on the grounds of desertion and cruelty.

9. In matrimonial law, allegations of desertion and cruelty are frequently treated as continuing or recurring causes of action rather than isolated incidents, allowing for legal action even if previous petitions were

dismissed. If the behavior, such as mental cruelty or separation, persists and creates an unbearable marital situation, it provides a valid, ongoing ground for divorce.

10. Further, petitioner can file a new Hindu Marriage Original Petition (HMOP) for divorce on the same cause of action if the previous petition was dismissed for default (non-prosecution). Even the principle of *res judicata* generally does not apply, especially when the grounds for divorce (e.g., cruelty, desertion) are of a continuing or recurring nature.

11. Adding to the above, in matrimonial disputes the cause of action cannot be of limited extent and new cause of action continues to arise so long the desertion and cruelty persists.

12. In view of the above, since the grounds on which the divorce was sought are of continuing or recurring nature, the subsequent divorce petition even if filed on the same cause of action is not barred by Order-IX, Rule-9 CPC and therefore, the order impugned in this Civil Revision Petition is liable to be set aside.

13. Accordingly, the Civil Revision Petition is allowed, setting aside the order dated 16.10.2024 passed in CFR No.1515 of 2024 (I.A.No.444 of 2024)

in Un-numbered HMOP. The learned trial Judge shall number the HMOP if found in order. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

29th April, 2026.

JUSTICE RAVI CHEEMALAPATI

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