



IN THE VII ADDITIONAL PRINCIPAL FAMILY COURT AT CHENNAI
Thiru. G. Vijayakumar. B.Sc., L.L.M.,

VII Additional Principal Judge

VII Additional Family Court

Friday, the 20th day of February 2026

I.A.No.9/2025 in O.P.No. 1284/2019

Rosy Chakkramakkil Francis, W/o. Dr.Rajiv Varghese, Christian, aged about 46 years, residing at FB, First Floor, Kamala Paradise, Pleasant Avenue, Shakthi Nagar Main Road, Near Shell Petrol Bunk, Porur, Chennai 600 116.

Petitioner/Respondent

-Vs-

Dr Raji Varghese, S/o. B.A.Vergheese, aged about 57 years, residing at No.A8, Phase 4, Arunagiri Street, Kaaviya Gardens, Porur, Chennai – 600 116.

Respondent/Petitioner

This petition has been filed under section 151 of CPC to strike off the above O.P 1284/2019.

This petition came up for final hearing before me on 06.02.2026, in the presence of the petitioner and the respondent and upon hearing both parties and on perusing the petitions, counters and other connected material papers on record and these petitions having stood over for consideration till this date, this court today doth order and decree as follows:


1. that the respondent is directed to pay the arrears of maintenance due to the petitioner within a period of one month from today (ie) on or before 23.03.2026 failing which struck off order will be passed in O.P 1284/2019.

Given under my hand and the seal of this court, this the 20th day of February 2026.


VII Additional Principal Judge


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Certified to be true copy


17-04-26.

Superintendent of Copyist

FAMILY COURT CHENNAI

C.A. No. 3984/26 20
O.P. No. 1284/19 20
Application made on 8/4/2026
Stamps called for on 10/6/2026
Stamp papers deposited on 10/6/2026
Addl. stamps called for on 20
Addl. stamp papers deposited on 20
Copy made Ready on 17/4/2026
Copy Delivered on 23/06/26 20

H.J.
Superintendent.

IN THE VII ADDITIONAL PRINCIPAL FAMILY COURT AT CHENNAI

Thiru. G. Vijayakumar, B.Sc., L.L.M.,

VII Additional Principal Judge

VII Additional Family Court

Friday, the 20th day of February 2026

I.A.No.9/2025 in O.P.No. 1284/2019

Rosy Chakkramakkil Francis ... Petitioner/Respondent

-Vs-

Dr. Raji Varghese ... Respondent/Petitioner

I.A.No.1/2025 in O.P.No. 596/2024

Rosy Chakkramakkil Francis ... Petitioner/Petitioner

-Vs-

Dr. Raji Varghese ... Respondent/Respondent

These petitions came up for final hearing before me on 06.02.2026, in the presence of the petitioner and the respondent and upon hearing both parties and on perusing the petitions, counters and other connected material papers on record and these petitions having stood over for consideration till this date, this court today delivered the following:

COMMON ORDER

1. I.A.No.9/2025 in O.P.No. 1284/2019

This petition has been filed under section 151 of CPC to strike off the above O.P 1284/2019.

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I.A.No.1/2025 in O.P.No. 596/2024

This petition has been filed under section 151 of CPC to strike off the defence of the respondent in the above O.P 596/2024.

3. The brief common averments in the above I.As are as follows :-

The respondent herein has filed O.P 1284/2019 seeking dissolution of marriage and in which the petitioner has filed counter claim in O.P 596/2024 seeking dissolution of marriage on the ground of cruelty and desertion along with a claim for permanent alimony. In the O.P 1284/2019, the petitioner filed I.A 1/2019 for interim maintenance and the same was allowed on 14.06.2022 directing the respondent herein to pay a sum of Rs.1,75,000/- p.m from the date of filing the I.A 1/2019 (i.e) from 03.07.2019. The respondent herein had preferred C.M.A 1539/2022 before the Hon'ble High Court, Madras against the order passed in I.A 1/2019 and in which the Hon'ble High Court had set aside the order and directed the respondent to pay a sum of Rs.80,000/-p.m towards interim maintenance. Aggrieved by the said order, the petitioner had filed S.L.P 19922/2023 before the Hon'ble Supreme Court and the Hon'ble Supreme Court vide its order dated 19.11.2024 had allowed the S.L.P and upheld the order of this court and directed the respondent herein to pay Rs.1,75,000/- p.m towards interim maintenance. Since the date of filing of interim maintenance application a sum of Rs.1,00,55,000/- is pending towards arrears of interim maintenance and the respondent has made a total payment of Rs.20,20,000/- so far. The respondent is making a payment of only Rs.30,000/- p.m which shows his scant respect towards the order of the court. Hence in the interest of justice, the O.P 1284/2019 filed by the respondent and the defence of the respondent in O.P 596/2024 are liable to be struck off.



4. The brief common averments in the counter in the above I.A.s are as follows:-

The petitioner had earlier filed an application seeking rejection of the O.P 1284/2019 and the same was dismissed on 08.02.2024. The present applications are 2nd attempt to indirectly achieve what was already rejected. The claim of arrears totaling Rs.1,00,55,000/- is exaggerated. The respondent already paid Rs.22,50,000/- towards interim maintenance and presently the arrears amounts is Rs.98,25,000/-. The respondent is regularly paying Rs.30,000/- per month based on his current financial ability. The respondent is a cardiologist and he was recently diagnosed with a neural condition which has severely impacted his professional capacity and income. Now he is unable to work as previously could and he is dependent on limited and irregular income. The respondent is the co-owner of 2 properties at Chengelpet and Padur along with the petitioner. His 50% undivided share in these properties is worth about Rs.75,00,000/- and he has proposed that this share be adjusted towards part satisfaction of the claimed arrears and he undertakes to pay the remaining amount in reasonable installments. The petitioner is attempting to prolong the proceedings by repeatedly filing applications of this nature. The remedy of striking off the petition or defence is an exceptional one and can only be invoked in cases of willful disobedience of court orders. The respondent has been consistently making partial payments to the best of his capacity. Further a review petition has also been filed by him before the Hon'ble Supreme court against the order dated 19.11.2024 and the same is pending. Hence these petitions are liable to be dismissed.

5. The point that arise for consideration is:

Whether these petitions are to be allowed ?

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6. Answer for the points :-

Heard Both sides. Records perused. The respondent herein has filed the O.P 1284/2019 for divorce and the petitioner herein has filed counter claim in O.P 596/2024 seeking for divorce on the ground of cruelty and desertion and for permanent alimony. During the pendency of the O.P 1284/2019 the petitioner has filed I.A.No.1/2019 for interim maintenance and the same was ordered on 14.06.2022 by granting interim maintenance of Rs.1,75,000/- p.m to the petitioner. The respondent preferred CMA 1539/2022 in which the order of this court was set aside and the respondent was directed to pay Rs.80,000/- p.m. Against the said order, the petitioner herein filed Civil Appeal No.12547/24 and the respondent herein filed Civil Appeal No.12546/24 before the Hon'ble Supreme Court and the Hon'ble Supreme Court has allowed the Civil Appeal filed by the petitioner and dismissed the Civil Appeal filed by the respondent and restored the order passed by this court directing the respondent herein to pay Rs.1,75,000/- p.m to the petitioner. The petitioner has stated that the respondent has paid only Rs.20,20,000/- so far. The contention of the respondent is that he is regularly paying Rs.30,000/- p.m based on his current financial ability. The respondent has further stated that he has proposed his 50% of undivided share in the properties situated at Chenglepet and Padur worth about Rs.75,00,000/- and he is ready to pay the balance amount in reasonable installments. The petitioner has submitted that the above properties are not worth about Rs.75,00,000/- and hence she is not accepting the offer. When the petitioner is not willing to accept the proposal, she cannot be compelled to accept the same. Further, the contention of the respondent that the remedy of striking off petition can be invoked only in cases of willful disobedience of court orders, is not acceptable. In this regard, this court relies on the dictum of Hon'ble Apex Court in CrI. Appeal Nos. 1129-1130/2019 dated 24.07.2019 (Kaushalya Vs. Mukesh Jain), wherein it was held that,

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" In the event that there is any failure on the part of the respondent to comply with the order for deposit of arrears and month to month installments, it will be open to the appellant to apply before the Family Court to get the defence of the respondent struck off".

In **Ajeeshkumar - Vs - Shailaja** [CRP (PD) No.5053/2024 dated 16.12.2024] (<https://www.mhc.tn.gov.in/judis>) cited by the assisting counsel for the petitioner, our Hon'ble High Court has observed that if the order of maintenance and litigation expenses are not obeyed, the trial court can retain in itself the power to strike off the defence and further observed that the husband owes liability to discharge the maintenance ordered by the court and in case, he does not discharge his duty, the court has the power to strike off the defence. The facts of the cases in the above authorities are similar to the facts in the case on hand and the dictum laid down in the above citations squarely applies to this case. Since, the respondent has failed to pay the interim maintenance amount, he automatically loses his right to proceed the O.P 1284/2019 filed by him and to defend the O.P 596/2024 and without paying the interim maintenance, he cannot be allowed to proceed with the O.P 1284/2019 and his defence in O.P 596/2024 is liable to be struck off since he is default in payment of interim maintenance. Hence, these petitions are deserve to be allowed and the point is answered accordingly.

7. The respondent was ordered to pay Rs.1,75,000/- p.m from 03.07.2019 and as on date the amount to be paid by the respondent is Rs.1,38,25,000/-. The petitioner has stated that as on April 2025, the respondent has paid Rs.20,20,000/-. Though the respondent has stated that he has paid Rs.22,50,000/- towards arrears of maintenance, he has not filed any proof for the same. Hence, the said contention

of the respondent is not acceptable. Therefore, the respondent is liable to pay Rs.1,18,05,000/- as on date.



8. In the result, the respondent is directed to pay the arrears of maintenance due to the petitioner within a period of one month from today (ie) on or before 23.03.2026 failing which struck off order will be passed in O.P 1284/2019 and his defence in O.P 596/2024 will be ordered to struck off.

Dictated to the steno typist and directly typed by her in computer, corrected and pronounced by me in the open court on this the 20th day of February 2026.

[Signature]
20.2.26
VII Additional Principal Judge

Both side Witnesses and Exhibits: Nil

[Signature]
20.2.26
VII Additional Principal Judge

Common Draft/Fair Order in

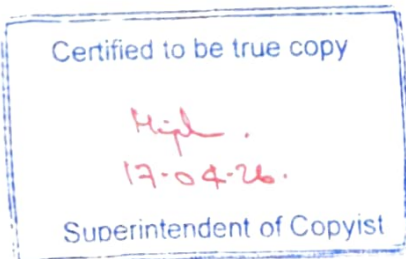
I.A.No.9/2025 in

O.P.No.1284/2019 and

I.A.No.1/2025 in

O.P.No.596/2024

Date: 20.02.2026



[Signature]
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FAMILY COURT CHENNAI	
C.A. No.....	3984/26 20
O.P. No.....	1284/19 20
Application made on.....	8/4/2026
Stamps called for on.....	10/4/2026
Stamp papers deposited on.....	10/4/2026
Add. stamps called for on.....	20
Add. stamp papers deposited on.....	20
Copy made Ready on.....	11/4/2026
Copy Delivered on.....	02/06/20
<i>Handwritten Signature</i> Superintendent.	