

HON'BLE SRI JUSTICE G.CHANDRAIAH

C.R.P.No.2695 of 2014

ORDER:

This Civil Revision Petition is directed against the order of the learned Judge, Additional Family Court, Visakhapatnam, dated 21.07.2014 passed in I.A.No.388 of 2013 in O.P.No.927 of 2011. By this order, the delay of 532 days in filing a petition for setting aside the ex parte decree dated 10.01.2012 passed against the respondent-wife was condoned.

The revision petitioner-husband filed the aforesaid O.P.No.927 of 2011 against the respondent-wife for dissolution of their marriage and obtained ex parte decree on 10.01.2012. On coming to know the same, the respondent-wife filed an application for setting aside the said ex parte decree passed against her and as there was delay of 532 days in filing the said application, she filed the present I.A.No.388 of 2013 seeking to condone the said delay. The revision petitioner-husband contested the aforesaid application. The trial Court, on a consideration of the entire material available on record, allowed the application on payment of costs of Rs.1,000/-. It is against this order, the present Civil Revision Petition has been filed by the revision petitioner-husband.

Heard both sides.

While ordering notice before admission, this Court, on 10.10.2014 granted interim stay of all further proceedings in O.P.No.927 of 2011.

Although there was delay of 532 days in filing the petition for setting aside the ex parte decree, the respondent-wife has shown to the trial Court the reasons for such delay. It is stated by the respondent-wife that she came to know about the filing of O.P.No.927 of 2011 and passing of ex parte decree against her only when the police arrested her husband i.e., revision petitioner basing on her complaint lodged to Neredmet Police under Section 498-A I.P.C. and Sections 3 and 4 of Dowry Prohibition Act and hence there was delay. A perusal of the impugned order would reveal that the registered cover sent to the residential address of the respondent-wife returned with an endorsement that the “addressee left”, whereas the registered post sent to the office address of the respondent-wife returned with an endorsement of “refusal”. In other words, the summons sent through the Court is not served on the respondent-wife.

It shall be borne in mind that the respondent herein is the legally wedded wife of the revision petitioner and she is residing away from the revision petitioner since 2011. The power to condone delay in approaching the Court has been conferred upon the Courts to enable them to do substantial justice to the parties by disposing of matters on merit. The expression "sufficient cause" employed by the Legislature in the Limitation Act is adequately elastic to enable the Courts to apply the law in a meaningful manner which sub-serves the ends of justice that being the life purpose for the existence of the institution of Courts.

The trial Court has given sufficient and cogent

reasons while allowing the present I.A.No.388 of 2013. Therefore, I do not find any reason or justification to interfere with the order passed by the trial Court.

The Civil Revision Petition is accordingly dismissed. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

G.CHANDRAIAH, J

27-02-2015
Gsn