

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.11.2016
Coram

The Hon'ble Mr.Justice M.DURAIWAMY

CRP(NPD)NO.1206 of 2014

T.Srivelmurugan		...Petitioner
	Vs	
Valarmathi		... Respondent

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decretal order dated 28.04.2011 passed by the learned Principal District Judge, Villupuram, in I.A.No.40 of 2011 in C.M.A.No.11 of 2008.

For Petitioner : Mr.Ravikumar Paul for
M/s Paul and Paul

For Respondent : Mrs.R.Meenal

O R D E R

Challenging the order passed in I.A.No.40 of 2011 in C.M.A.No.11 of 2008 on the file of the Principal District Court, Villupuram, the petitioner, who is the husband of the respondent, has filed the above Civil Revision Petition.

2. The revision petitioner filed H.M.O.P.No.31 of 2005 on the file of the Principal Sub Court, Villupuram for divorce on the ground of desertion. After contest, the trial Court dismissed the original petition.

Aggrieved over the same, the revision petitioner filed an appeal in C.M.A.No.11 of 2008 on the file of the Principal District Court, Villupuram. Subsequently, the petitioner did not prosecute the appeal. Hence, the appeal was dismissed for non prosecution on 20.10.2008. Thereafter, the petitioner filed an application in I.A.No.40 of 2011 to condone the delay of 223 days in filing the application to restore the appeal. In the affidavit filed in support of the petition, the petitioner has stated that the letter written by his counsel did not reach him and therefore, he could not instruct his counsel. Hence, the appeal was dismissed for non prosecution. Except stating that he did not receive the letter written by his counsel, the petitioner has not given any acceptable reason for condoning the delay of 223 days in filing the application for restoring the appeal.

3. It is settled position that unless the parties seeking for condonation of the delay give sufficient cause for the delay, the delay should not be condoned. In the case on hand, the original petition was filed in the year 2005 and the same was dismissed by the trial Court on 09.10.2006. Thereafter, the petitioner has filed the appeal in the year 2008 and left it to be dismissed for non prosecution on 20.10.2008. Since the petitioner has not explained the reasons for the delay in a

proper manner, the lower Appellate Court has rightly dismissed the application. The ratio laid down by the Hon'ble Supreme Court of India, in a Judgment reported in ***(2015) 1 SCC 680 (H.Dohil Constructions Private Limited vs. Nahar Exports Limited and Another)*** squarely applies to the facts and circumstances of the present case.

4. In these circumstances, I do not find any reason to interfere with the order passed by the lower Appellate court. The Civil Revision Petition is devoid of merits and hence the same is dismissed. No costs.

02.11.2016

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To
The Principal District Judge, Villupuram,

M.DURAI SWAMY,J

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