

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

C.M.A.No.815 of 2016
and
CMP.No.6602 of 2016

Kalaivani ... Appellant

vs.

Santhosh Raj ... Respondent

Civil Miscellaneous Appeal filed under Section 19(1) of the Family Courts Act against the judgment and order dated 12.01.2016 made in I.A.No.2688 of 2013 in O.P.No.4412 of 2011 on the file of the III Additional Family Court, Chennai.

For Appellant : Mr.M.Venkadesh Kumar

For Respondent : Mr.C.L.Laliji

J U D G M E N T

(Judgment of the Court was delivered by HULUVADI G. RAMESH,J.)

This appeal is filed as against the order of the dismissal of the interlocutory application seeking to set aside the exparte order dated 12.01.2016.

2. The appellant is the wife, who is the respondent in the main O.P. The respondent herein, who is the husband has filed the O.P. seeking divorce. The appellant was set exparte on 12.01.2016 and she had filed an application to set aside the said exparte order with a delay. Such delay application was subsequently condoned, however, while considering the application seeking to set aside the exparte order, the lower Court has dismissed the said application, against which, the present appeal is filed.

3. Learned counsel for the respondent submitted that the

O.P. is pending for more than 5 years and no positive steps have been taken by the appellant to settle the matter and hence, the appeal cannot be entertained.

4. On the other hand, learned counsel for the appellant submitted that the appellant was in depression and unable to attend the Court and only due to the aforesaid reason, she was absent and her absence was not deliberate.

5. This Court considered the submissions made on the learned counsel on either side and perused the materials available on record.

6. The Original Petition is pending before the Family Court for more than 5 years. Therefore, we are of the view that without going into the merits of the matter, it would suffice to direct the appellant to co-operate for early disposal of O.P.

7. Accordingly, the civil miscellaneous appeal is allowed, subject to the condition that the appellant shall co-operate for early disposal of O.P. The impugned order of dismissal made in I.A.No.2688 of 2013 dated 12.01.2016 is set aside and the same is restored to file. The III Additional Family Court, Chennai, is directed to dispose of O.P.No.4412 of 2011 within a period of six months from the date of receipt of a copy of this order. Both the parties shall co-operate for the early disposal of the O.P. Consequently, connected civil miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

vsi
To

The III Additional Judge/Family Court,
Chennai

1 cc to M/s.C.L.Lalji, Advocate, sr.23634

1 cc to M/s.N.R.P. Ayyanar, Advocate, sr.23566

C.M.A.No.815 of 2016
and C.M.P.6602 of 2016

mp co
kra 27.05.2016