

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.2094 of 2016

Ramadoss

... Petitioner

Vs.

Premalatha

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 21.03.2016 made in I.A.No.706 of 2014 in C.M.A.SR.No.3890 of 2014 on the file of the Principal District Court, Chengalpet.

For Petitioner : Mr.M.Selvam

ORDER

Challenging the fair and final order passed in I.A.No.706 of 2014 in C.M.A.SR.No.3890 of 2014 on the file of the Principal District Court, Chengalpet, the petitioner, who is the husband of the respondent, has filed the above Civil Revision Petition.

2.The petitioner filed H.M.O.P.No.5 of 2006 on the file of the Subordinate Court, Maduranthagam to dissolve the marriage solemnized between the petitioner and the respondent by a decree of nullity. The

Original Petition was contested by the respondent/wife. The trial Court, after taking into consideration the oral and documentary evidences of both parties, dismissed the petition.

3. Thereafter, the petitioner filed an appeal in C.M.A.SR.No.3890 of 2014 on the file of the Principal District Court, Chengalpattu with a petition to condone the delay of 1702 days in filing the appeal. In the affidavit filed in support of the petition, the petitioner has stated that he has wrongly filed the appeal before this Court in C.M.A.SR.No.101083 of 2009 on 07.12.2009 and the Registry of this Court returned the papers for presenting the same before the appropriate Court on 17.07.2013. In spite of receiving the papers on 17.07.2013, the petitioner filed the appeal before the District Court only in August 2014. In the affidavit, he has stated that the returned papers were misplaced and therefore, the appeal could not be filed immediately. Hence, there is a delay of 1702 days.

4. The trial Court, while dismissing the Original Petition, found that the respondent is the 2nd wife of the petitioner and observed that the petitioner had created records subsequent to the marriage with the respondent. Further, the petitioner has filed the Original Petition after getting two children, that too, after a lapse of 13 years from the date of

the marriage. The trial Court also observed that to suit his convenience, the petitioner had created the documents.

5. When the Registry of this Court had returned the papers for presenting the appeal before the Competent Court, the petitioner should have presented the appeal before the District Court immediately. But he took more than one year for presenting the appeal before the District Court. In the absence of sufficient cause shown by the petitioner, the Lower Appellate Court has rightly dismissed the petition.

6. It is settled position that in the absence of sufficient cause shown by the petitioner to condone the delay, the delay should not be condoned. The ratio laid down by the Hon'ble Supreme Court in **(2015) 1 Supreme Court Cases 680 [H.Dohil Constructions Company Private Limited Vs. Nahar Exports Limited and another]** squarely applies to the facts and circumstances of the present case. The petition to condone the inordinate delay of 1702 days in filing the appeal in C.M.A.SR.No.3890 of 2014 was rightly rejected by the Lower Appellate Court.

7. In these circumstances, I do not find any error or irregularity in the order passed by the Lower Appellate Court. The Civil Revision Petition is

devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision
Petition is dismissed. No costs.

Index : No
Internet : Yes
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14.07.2016

To

The Principal District Court,
Chengalpet.

M.DURAIWAMY,J.
va

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