

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2016

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P.No.3466 of 2009

and

M.P.No.1 of 2009

Andrew Needhi Doss .. Petitioner

Vs

J.Hemalatha .. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order passed in I.A.No.2208 of 2005 in O.P.No.1273 of 2002 dated 28.08.2009, pending on the file of Principal Judge, Family Court, Chennai is against the law, contrary to the facts and perverse and it is liable to be set aside.

For Petitioner : M/s.P.C.Harikumar & Associates

For Respondent : No Appearance

O R D E R

This civil revision petition has been filed against the order passed in I.A.No.2208 of 2005 in O.P.No.1273 of 2002 dated 28.08.2009, on the file of Principal Judge, Family Court, Chennai.

2. Heard the learned counsel appearing for the petitioner. No representation on behalf of the respondent.

3.Originally this civil revision petition has been filed by the petitioner, who is the respondent before the Principal Judge, Family Court, Chennai. The respondent herein moved I.A.No.2208 of 2005 in O.P.No.1273 of 2002 for condoning the delay of 208 days in filing the set aside application. The learned Principal Judge, Family Court, Chennai, allowed the application by order dated 28.08.2009. Aggrieved against the same, the present civil revision petition has been filed. During the pendency of the civil revision petition, the Principle Judge, Family Court, Chennai has numbered the set aside application in I.A.No.2208 of 2005. The said application

was allowed by order dated 28.08.2009 on condition that the respondent herein to pay Rs.1,000 costs to the petitioner.

4.The learned counsel appearing for the petitioner has filed a memo dated 06.08.2016 stating that the revision petitioner herein has filed the divorce petition and the same was granted on 17.02.2005. Thereafter, the petitioner has performed second marriage on 12.08.2005. Then, the respondent herein has filed an application for setting aside the exparte decree granted in O.P.No.1273 of 2002 dated 17.02.2005 with a condone delay of 208 days in filing the set aside application and as well as the application to set aside the exparte decree dated 17.02.2005.

5. This petitioner further states that I.A.No.2208 of 2005 has been filed by the respondent herein with condone delay of 208 days in filing the application for setting aside the exparte decree order. The said application was allowed on payment of Rs.1,000/-, which was deposited into the Court. Aggrieved by the said order, the revision petitioner preferred this review petition. After the delay was condoned, the office has numbered the set aside application as I.A.No.2655 of 2006. When the application came up on 14.07.2014, the learned Principal Judge, Family Court was pleased to dismiss the said application. The adjudication of the order made in I.A.No.2655 of 2006 are extracted hereunder:

"Petitioner absent. Respondent present. The petitioner is not present all along despite the fact that it is posted for appearance of the petitioner, as the last chance for several occasions. The petitioner called absent. Hence, the petition is dismissed for default".

Therefore, the respondent is not interested to prosecute the divorce petition and the very application for setting aside the exparte decree is also dismissed."

6.Recording the said memo, the civil revision petition is allowed by setting aside the order in I.A.No.2208 of 2005 dated 28.08.2009. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

The Principal Judge,
Family Court, Chennai.

+1 cc to Mr.P.C.Harikumar & Asso., sr.45373.

nr(co)
krd 15/9

C.R.P.No.3466 of 2009
and
M.P.No.1 of 2009



WEB COPY