

In the High Court of Judicature at Madras

Dated : 22.09.2017

Coram

The Honourable Mr.Justice R.SUBBIAH

and

The Hon'ble Mr.Justice P.VELMURUGAN

CMP No.12444 of 2017

in

C.M.A.SR.No.55843 of 2017

M.Meena

..Petitioner/
Appellant

..vs..

S.Sakthivel Murugan

..Respondent/
Respondent

Petition has been filed under Section 5 of the Limitation Act to condone the delay of 41 days in filing the Civil Miscellaneous Appeal.

Civil Miscellaneous Appeal has been filed under Section 19 of the Family Courts Act, against the order dated 25.04.2017 passed by the Additional Family Court, Coimbatore in I.A.No.5 of 2016 in H.M.O.P.No.903 of 2013.

For Appellant : Mr.E.D.Sethupathi
For Respondent : Mr.C.R.Prasannan

ORDER

(Judgment of the Court was delivered by R. SUBBIAH, J.)

Heard both sides and perused the records.

2.Originally, the respondent / husband filed a petition in HMOP.No.903 of 2013 under Section 13(1)(i)(a) of the Hindu Marriage Act for divorce. Pending the said petition, the petitioner /wife filed an application in I.A.No.5 of 2016 in HMOP.No.903 of 2013, seeking interim maintenance to the tune of Rs.15,000/- per month.

3.By order dated 25.04.2017, the learned Additional Principal Family Judge, Coimbatore, allowed the said interlocutory application by directing the respondent/ husband to pay a sum of Rs.3,000/- per month to the petitioner /wife

towards interim maintenance on or before 7th day of every succeeding English Calender month till the disposal of the main petition. Further, the respondent / husband was directed to pay a sum of Rs.10,000/- as one time payment to the petitioner / wife towards litigation expenses.

4. Being not satisfied with the quantum of interim maintenance awarded by the Family Court, the petitioner / wife has come up with the present appeal in CMA.SR.No.55843/2017 with a delay of 41 days in filing the same.

5. When the condone delay petition was taken up for consideration, learned counsel for the respondent / husband submitted that the order under challenge in this appeal, has already been questioned by the respondent / husband by filing an appeal in CMA.No.1915 of 2017, which was dismissed by the Division Bench of this Court, by judgment dated 14.07.2017, the operative portion of which, is extracted hereunder:

"In the result, we confirm the order dated 25.04.2017 made in I.A.No.5 of 2016 in HMOP.No.903 of 2013 on the file of the Additional Principal Family Judge's Court, Coimbatore and the appellant / husband is directed to pay the arrears of interim maintenance within a period of four weeks from today and thereafter, to continue to pay the interim maintenance till the disposal of the main O.P. Having regard to the facts and circumstances of the case, we direct the Family Court, Coimbatore to dispose of HMOP.No.903 of 2013 within a period of three months from the date of receipt of a copy of this judgment.

With the above observation, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed."

6. We are of the opinion that since the order impugned in this appeal, has already been confirmed by this Court, in the judgment dated 14.07.2017 passed in CMA.No.1915 of 2017, there is no need to interfere with the same.

7. In such view of the matter, we are not inclined to condone the delay in filing the appeal. Accordingly, the Civil Miscellaneous Petition is dismissed. Consequently, the Civil Miscellaneous Appeal is rejected at SR stage itself. The

Additional Principal Family Court, Coimbatore is directed to dispose of the petition in HMOP.No.903 of 2013 on merits and in accordance with law, within a period of three months, as ordered by this Court in the aforesaid judgment dated 14.07.2017 in CMA.No.1915 of 2017. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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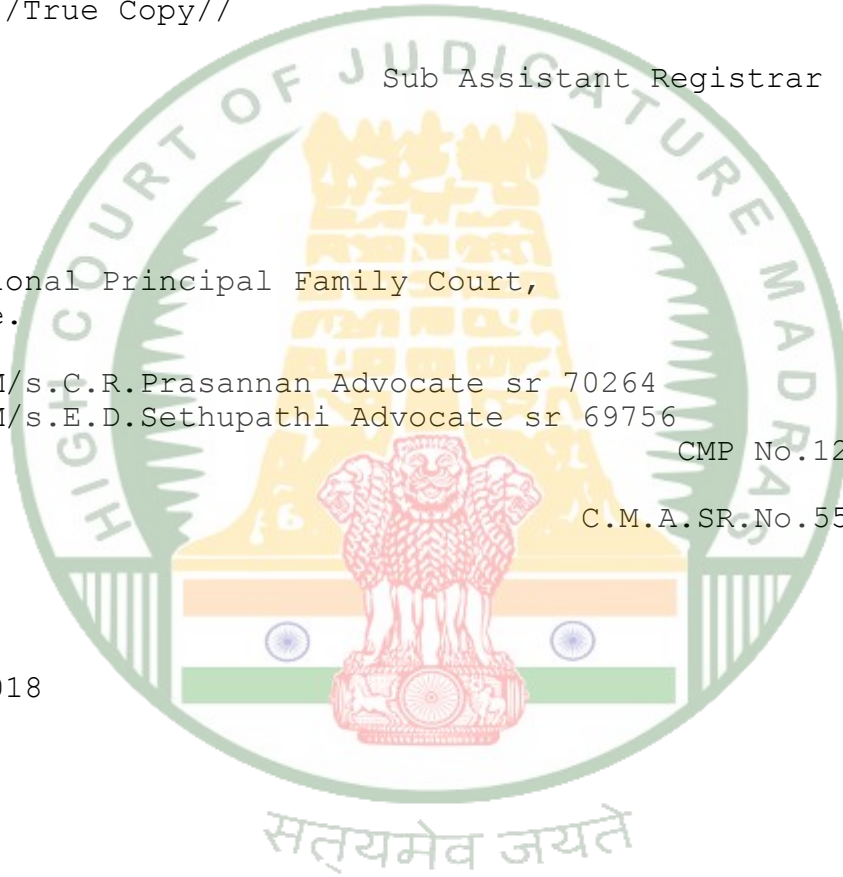
The Additional Principal Family Court,
Coimbatore.

+1 cc to M/s.C.R.Prasannan Advocate sr 70264

+1 cc to M/s.E.D.Sethupathi Advocate sr 69756

CMP No.12444 of 2017
in
C.M.A.SR.No.55843 of 2017

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