

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1484 of 2013
& M.P.No.1 of 2013

Santhi

.. Petitioner

Vs.

G.Karthikeyan

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 25.02.2013 made in I.A.No.55 of 2012 in H.M.O.P.No.98 of 2011 on the file of the Principal Subordinate Court, Krishnagiri.

For Petitioner : M/S.P.A.Chithramani

For Respondent : Not ready in notice

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 25.02.2013 made in I.A.No.55 of 2012 in H.M.O.P.No.98 of 2011 on the file of the Principal Subordinate Court, Krishnagiri.

2. The petitioner is the respondent and respondent is the petitioner in H.M.O.P.No.98 of 2011. The respondent filed the above H.M.O.P. against the petitioner for divorce. An ex parte decree was passed on 16.02.2012. The petitioner filed present I.A.No.55 of 2012 to condone the delay of 129 days in filing the petition to set aside the ex parte decree.

3. According to the petitioner, she received summons for the hearing on 16.02.2012, on that day, by mistake, she appeared before some other Court and before she could reach the present Court, she was set ex parte and ex parte decree was passed.

4. The respondent filed counter affidavit and denied all the averments made in the affidavit and submitted that notice in the H.M.O.P. was served on the petitioner for the hearing on 12.12.2011. The petitioner on 12.12.2011 appeared before the Court and took time for engaging an advocate. At her request, H.M.O.P. was adjourned to 09.01.2012, on that date, she did not appear before the Court and she was called absent. H.M.O.P. was posted to 16.02.2012, on that date also, she was not present, she was set ex parte and an ex parte decree was passed on that day. The

petitioner suppressed all the above facts and filed the present application. The petitioner is having illicit relationship with one Sasikumar, she left her three children and is living with him. The petitioner has not given any valid reason for condoning the delay of 129 days in filing petition to set aside the exparte decree and prayed for dismissal of the application.

5. The learned Judge considering the averments made in the affidavit, counter affidavit and materials available on record, dismissed the application.

6. Against the said order of dismissal dated 25.02.2013 made in I.A.No.55 of 2012, the present Civil Revision Petition is filed by the petitioner.

7. Heard the learned counsel for the petitioner and perused the materials available on record.

8. From the materials on record, it is seen that the petitioner has not approached the Court with clean hands. The reason given by the petitioner is that notice was served on the petitioner for the

hearing on 16.02.2012, which is factually incorrect. According to the petitioner, she went to some other Court on that day and before she could come to the present Court, she was set exparte and exparte decree was passed. If this submission is correct, the petitioner knew about the exparte decree on 16.02.2012 itself. But she did not explain as to why she did not file the application to set aside the exparte decree and delay of 129 days occurred in filing application. In view of the factually incorrect statement made by the petitioner, the learned Judge has dismissed the application by giving cogent and valid reason. In the circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 25.02.2013.

9. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

10.11.2017

Index : Yes/No
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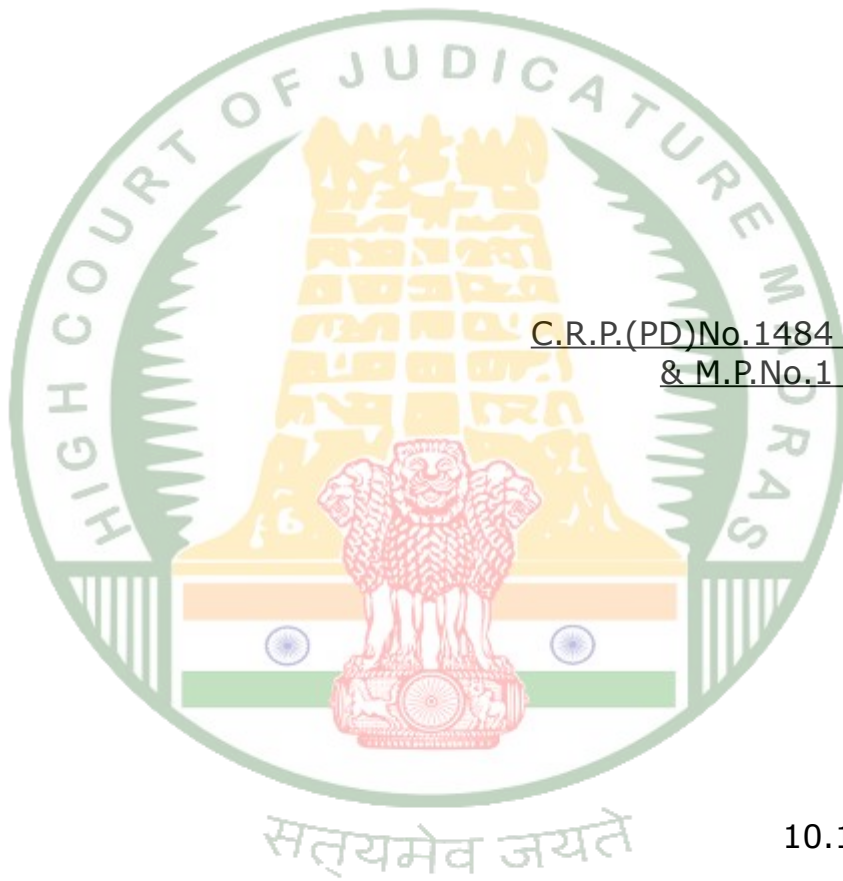
To

The Principal Subordinate Judge, Krishnagiri.

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V.M.VELUMANI, J.

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