



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2017

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(NPD) (MD)No.2127 of 2017
and C.M.P. (MD)No.10561 of 2017

Balachitra ... Petitioner/Respondent/Petitioner

vs.

Kumaran ... Respondent/Petitioner/Respondent

PRAYER: Petition filed under section 115 of CPC to set-aside the fair and decreetal order passed by the learned Subordinate Judge, Virudhunagar in I.A.No.18 of 2017 in H.M.O.P. No.66 of 2015 dated 18.08.2017.

For Petitioner : Mr.S.Kiruba Vijay

O R D E R

This Civil Revision Petition has been filed to set-aside the fair and decreetal order passed by the learned Subordinate Judge, Virudhunagar in I.A.No.18 of 2017 in H.M.O.P. No.66 of 2015 dated 18.08.2017.

2. The petitioner would aver among other things that the petitioner/wife has filed H.M.O.P.No.66 of 2015 for dissolution of marriage and since the respondent/husband went to Kerala for his mother's treatment, he was not able to attend the court and therefore, he was set ex-parte. The respondent/husband has filed a petition to condone the delay of 68 days in filing the petition to set aside the ex-parte order. The court below has allowed the said petition. Against which, the present Civil Revision Petition has been filed.

3. The case of the respondent/husband before the court below is that the petition to set aside the ex-parte decree was presented on 23.09.2016 and the same was returned and the ex-parte decree was passed against the petitioner on 26.09.2016 and therefore, he filed a fresh petition to set aside the ex-aparte order and in that process, 68 days of delay occurred.



5. On a perusal, it is seen that the court below has considered the reasons assigned by the petitioner that the petitioner has accompanied his mother for treatment in Kerala on 01.07.2015 and he was not able to appear before the court and therefore, he was set ex-parte. The learned Judge has allowed the petition on payment of cost of Rs.3000/-, which is very reasonable. The order of the learned Sub Judge does not warrant interference at the hands of this Court. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected C.M.P. (MD) No.10561 of 2017 is also dismissed.

6. However, considering the submission of the learned counsel for the petitioner that H.M.O.P.66 of 2015 may be disposed at an early date, this Court is inclined to issue a direction for early disposal. The learned Subordinate Judge, Virudhunagar, is directed to dispose of H.M.O.P. 66 of 2015 within a period of six months from the date of receipt of copy of this order.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1.The Subordinate Judge, Virudhunagar.

2.The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.D.RAMESHKUMAR, Advocate SR.No. 88417

CRP (NPD) (MD) No.2127 of 2017
and C.M.P. (MD) No.10561 of 2017
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CM

JM/KP/SAR 4/06.12.2017/2P/4C