



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2017

CORAM :

WEB COPY

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

**C.R.P. (PD) (MD) Nos.514 and 515 of 2017**

**and**

**C.M.P. (MD) .No.2408 of 2017**

Dr.G.Kamal

... Petitioner in both C.R.Ps.

vs.

Dr.Punitha

... Respondent in both C.R.Ps.

**Prayer in C.R.P.No.514/2017:** The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the petition and order passed by the learned Principal Sub Judge, Karur in I.A.No.208 of 2016 in H.M.O.P.No.221 of 2015 dated 30.08.2016.

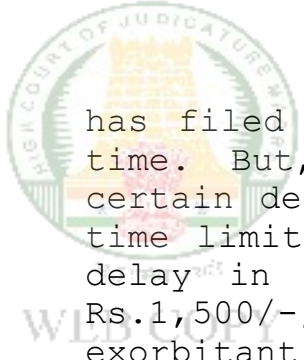
**Prayer in C.R.P.No.515/2017:** The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and executable order passed by the learned Principal Sub Judge, Karur in I.A.No.207 of 2016 in H.M.O.P.No.221 of 2015 dated 30.08.2016.

For Petitioner : Ms.S.Akila  
for Ms.T.Jayanthi Rani

### **C O M M O N O R D E R**

These Civil Revision Petitions are filed against the order of the trial Court imposing cost of Rs.1,500/-, to condone the delay of 65 days in representation of the application to set aside the ex-parte order and for non-appearance on 01.04.2016.

2. The learned counsel for the petitioner is able to convince this Court that the ex-parte order was passed on 01.04.2016, whereas notice from Legal Services Authority was received by the petitioner to appear before the Lok Adalat on 09.04.2016. Hence, misled by the notice from the Legal Services Authority and the petitioner could not appear before the trial Court in H.M.O.P.No.221 of 2015, on 01.04.2016 leading to passing of ex-parte order against him. Pursuant to this, the revision petitioner



has filed an application to set aside the ex-parte order within time. But, after returning the application for compliance of certain defects, the petitioner could not represent it within the time limit, thereby there was a delay of 65 days. To condone the delay in representation, the Trial Court has imposed cost of Rs.1,500/-, which according to the revision petitioner, is exorbitant.

3. There are two I.As. filed by the revision petitioner one to set aside the ex-parte order and another to condone delay in representation. Both applications were allowed on payment of costs of Rs.1,500/- each. When the revision petitioner has provided plausible reason for non-appearance, the reason for delay in representation is not convinced. When there is a delay in representation or in presentation, it is the discretion of the Court based on the circumstances to impose cost. This being the matrimonial dispute, the petitioner being a Doctor by profession has not taken vigilant step in time. Therefore, cost imposed in I.A.No.207 of 2016 is proper and upheld. This Court see no error or perversity in imposing cost of Rs.1,500/- for condonation of delay in representation.

4. Hence, the C.R.P.No.515 of 2017 is dismissed.

5. The cost imposed in I.A.No.208 of 2016 to set aside ex-parte order is not proper, since the revision petition has shown sufficient cause. Hence, C.R.P.No.514 of 2017 is allowed.

6. The revision petitioner is directed to pay the cost of Rs.1,500/- as directed in I.A.No.207 of 2016 within 10 days from the date of this order and proceed with H.M.O.P.No.221 of 2015 without any further delay. The connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To:

The Principal Subordinate Judge,  
Karur.

+2 CC to M/s.A.HAJA MOHIDEEN, Advocate, SR No.15310, 15311.

AKV/PSD

PSM/SV-MMS/SAR4/06.04.2017/2P/4C

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