

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

C.R.P.No.422 of 2017

ORDER:

The petitioner husband has come up with the present revision petition challenging an order passed by the trial Court allowing an application of the wife under Order 9 Rule 13 C.P.C.

2. Heard Mr. V. Ganesh Bhujanga Rao, learned counsel for the petitioner.

3. Admittedly the marriage between the petitioner/husband and the respondent/wife was solemnized on 16.02.2004. But disputes arose between the parties leading to the petitioner herein filing a petition in D.O.P.No.119 of 2009, seeking dissolution of the marriage. The petition was posted for counter of the wife on 31.08.2009. On that day, the wife did not appear. Therefore, she was set ex parte and the matter was posted for evidence on 01.10.2009. Taking the proof affidavit filed by the husband, an ex parte decree was passed on 05.10.2009 dissolving the marriage that took place between the parties.

4. Within 21 days of the decree passed ex parte, the wife filed an application under Order 9 Rule 13. It was returned, but represented after a delay. Eventually, the petition was numbered.

5. The petition was opposed by the petitioner on the ground that there was huge delay in seeking to set aside the ex parte decree and that in the mean time, the petitioner married another lady and got two children. Therefore, the petitioner opposed the application on the ground of delay and lack of bona fides.

6. The Court below found that during this period of 14 months, the Registry of the court itself was responsible for a delay of seven months in

keeping the petition without numbering. Therefore, the trial Court held that when there was no delay in filing the application under Order 9 Rule 13, the delay in representation, especially when a part of it was due to the lethargy of the Registry, was liable to be condoned.

7. I find that the approach of the trial Court was perfectly in order and there is no illegality or infirmity in the order of the trial Court. Therefore, the Civil Revision Petition is dismissed.

8. As sequel, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

JUSTICE V. RAMASUBRAMANIAN

3rd February, 2017
Js.



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Date: 03-02-2017

Js.

