



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.09.2018**

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(PD) (MD) .No.2402 of 2017

S.K.Ganesh Babu

... Petitioner

Vs.

Sangeetha

... Respondent

PRAYER: Petition filed under Section 115 of Civil Procedure Code to set aside the fair and decreetal order in I.A.No.419 of 2016 in H.M.O.P.No.558 of 2010 dated 05.06.2017 on the file of the Family Court, Madurai and allow this Civil Revision Petition.

For Petitioner: Mr.S.Poorna Chandran

For Respondent: Mr.P.Mani Anandh

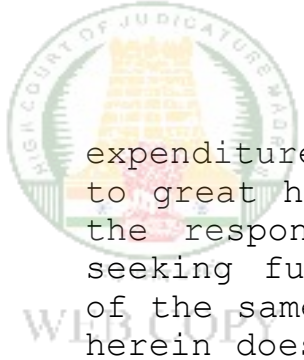
ORDER

The petitioner herein filed H.M.O.P.No.558 of 2010 before the Family Court, Madurai, seeking divorce. The said H.M.O.P.No. was dismissed for default. The petitioner applied for restoration. But there was a delay of 225 days in filing the restoration application. The Court below by order dated 05.06.2017 dismissed I.A.No.419 of 2016 filed by the petitioner herein seeking condonation of the said delay. The correctness of the order is questioned in this Civil Revision Petition.

2.Heard the learned counsel on either side.

3.This Court is of the view that though the reasons assigned by the Court below, cannot be said to be incorrect, the revision petitioner deserves to be given one more opportunity to prosecute the H.M.O.P., filed by him to its logical conclusion. In this view of the matter, the order impugned in this Civil Revision Petition is set aside. The Court below shall number the restoration application and allow the same also.

4.The learned counsel appearing for the respondent pointed out that two children were born through the wedlock. One is studying in 10th Standard and while the other is studying Diploma. The revision petitioner is not even bearing the educational



expenditure of the children. As a result, the respondent is put to great hardship. After the H.M.O.P., is restored it is open to the respondent to file appropriate application in this regard, seeking further monetary benefits. The Court below shall dispose of the same before proceeding with the H.M.O.P. If the petitioner herein does not honour the directions passed by the Court below in such an application to be filed by the respondent herein, the petitioner will not be allowed to prosecute the H.M.O.P., further.

5. With these observations, this Civil Revision Petition is allowed. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS-III)

To

The Judge,
Family Court, Madurai.

+ 1 CC TO MR.S.POORNA CHANDRAN, ADVOCATE IN SR NO.88123
+ 1 CC TO MR.P.MANI ANANDH, ADVOCATE IN SR NO.87659

PNN

BU/RSK/SAR-I : 30.10.2018 : 2P/4C

ORDER MADE IN
C.R.P. (PD) (MD) .No.2402 of 2017
28.09.2018