



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (NPD) (MD) No.303 of 2016

and

CMP (MD) No.1217 of 2016

WEB COPY

Rengasamy ... Revision Petitioner / Petitioner /  
Appellant

Vs.

Maheswari ... Respondent / Respondent / Respondent

PRAYER: Petition filed under Section 115 of Code of Civil Procedure, to set aside the order dated 26.11.2015 in I.A.No.3 of 2015 in C.M.A.SR.No.849 of 2015 passed by the learned Principal District Judge, Pudukottai.

For Petitioner : Mr.K.Balasundaram

For Respondent : Mr.P.Ganapathi Subramanian

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ORDER

The revision petitioner filed H.M.O.P.No.181 of 2009 before the Sub Court, Pudukottai for dissolving his marriage with the respondent.

2.The marriage between the parties took place on 19.11.1999. In the said HMOP, the respondent took out I.A.No.479 of 2012 for return of her articles. The said Interlocutory Application was allowed by order dated 17.10.2014. Questioning the same, the revision petitioner filed CMA.SR.No.849 of 2015 before the Principal District Court, Pudukottai. Along with the said petition, the I.A.No.3 of 2015 was filed to condone the delay. The said I.A.No.3 of 2015 in CMA.SR.No.849 of 2015 was dismissed, by order dated 26.11.2015. The correctness of the order is questioned in this Civil Revision Petition.

3.This Court is of the view that the delay occurred in filing the CMA cannot be said to be inordinate. The Court below ought to have allowed the condone delay petition. In this view of the matter, the impugned order is set aside and the Civil Revision Petition is allowed. The matter cannot rest there. The learned Counsel for the respondent submits that the order for payment of interim maintenance was made against the revision petitioner herein and that he is not complying with the maintenance order till date. Unless the husband



complies with the order regarding maintenance, he shall not be allowed to prosecute the proceedings against his wife. Therefore, the Court below, after numbering the appeal, shall see if the order regarding maintenance passed against the petitioner in favour of the respondent is complied with, if not, the CMA shall be dismissed.

With these directions, this Civil Revision Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar (CS-II)

To

The Principal District Judge, Pudukottai.

+1cc to Mr.K.BAALASUNDHARAM, Advocate, SR.No.80025

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23.08.2018

CMR

KK/SKN/SAR-2/15.10.2018/2P-3C