

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.02.2019

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.[NPD] No.1248 of 2013

Nalini

..

Petitioner

Vs.

M.Murugan

..

Respondent

PRAYER : Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the order dated 10.10.2012 passed in I.A.No.3167 of 2011 in F.C.O.P.No.2585 of 2010, on the file of the Principal Family Court, Chennai.

For Petitioner : No Appearance

For Respondent : Mr.A.Palaniappan

ORDER

Today, when the Civil Revision Petition is taken up for consideration, there is no representation on behalf of the revision petitioner.

The learned counsel for the respondent is present.

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2. Since the revision petition is pending from the year 2013 and there is no representation on behalf of the revision petitioner, this Court is inclined to dispose the same on merits.

3. I have perused the materials available on record.

4. This revision petition has been filed as against the order of the trial Court, dismissing the application filed by the revision petitioner to condone the delay of 317 days in filing the application to set aside the *ex parte* decree for divorce. After serving the notice on the revision petitioner for the hearing on 03.09.2010, she did not appear for enquiry and thereafter, *ex parte* decree was passed on 07.11.2010.

5. It is not the case of the revision petitioner that she is not aware of the divorce proceedings, in her affidavit itself she has clearly stated about the *ex parte* decree of divorce and she came to know about the same in the month of May 2011. However, she has come to the Court only on 20.10.2011. Similarly, the trial Court has noted about the legal notice sent by the revision petitioner dated 21.05.2011 wherein she has clearly pleaded about the *ex parte* decree of divorce.

6. Having known about the *ex parte* decree in the month of May 2011, immediately the revision petitioner has not filed any application to set aside the *ex parte* decree but she has filed the application with an inordinate delay of 317 days. Prior to that, she has filed various criminal complaints as

noted by the trial Court. The trial Court found that there is no sufficient cause to condone the delay and thereby, dismissed the application filed by the revision petitioner.

7. On perusal of the affidavit and the order of the trial Court will clearly indicate that the revision petitioner having known about the *ex parte* decree in the month of May 2011, she has filed criminal complaints against her husband and thereafter, leisurely she came to the Court for condonation of delay of 317 days without any sufficient cause. However, to take liberal approach, there must be a valid and reasonable ground to be shown by the party. Therefore, unless and until, the sufficient cause is shown, the delay cannot be condoned. Hence, this Court does not find any infirmity in the order of the trial Court.

8. With these observations, the Civil Revision Petition is dismissed.

No costs.

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Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

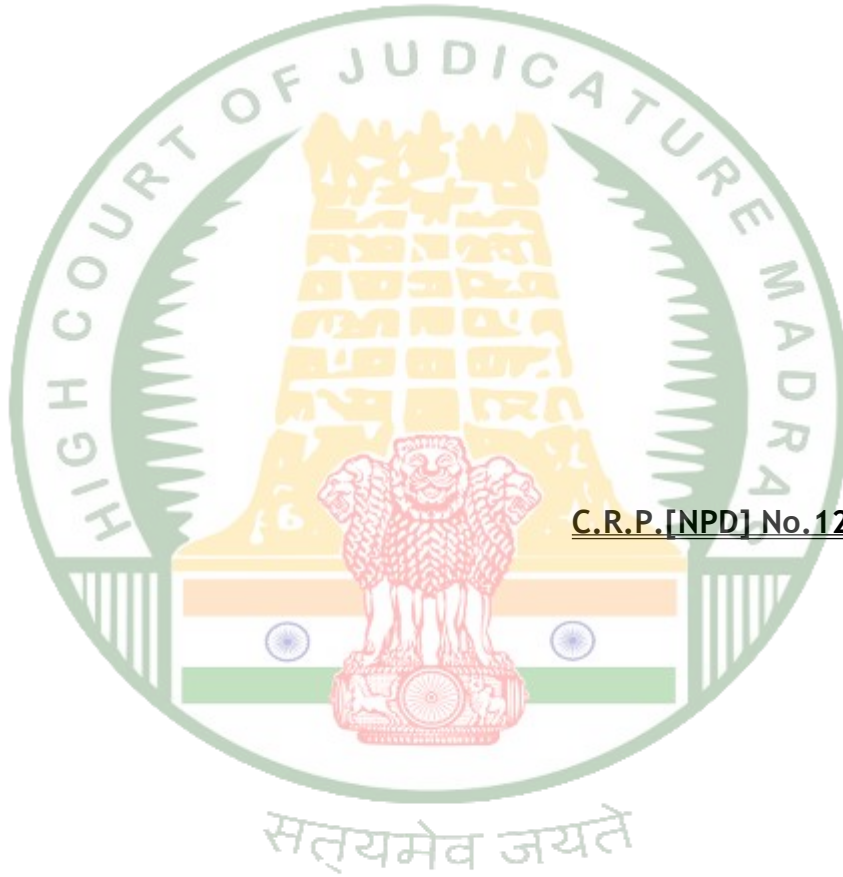
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N.SATHISH KUMAR, J.

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To

The Principal Family Court,
Chennai.



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