

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18..02..2020
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition No.679 of 2020

Kannan

... Petitioner

-Versus-

Geetha

... Respondent

Petition filed under Article 227 of The Constitution of India praying to set aside the order an decretal order dated 02.12.2019 made in I.A.No.66 of 2018 in H.M.O.P.No.62 of 2016 by the learned Subordinate Judge, Rasipuram, Namakkal District.

For Petitioner : Mr.S.Senthil

ORDER

This civil revision petition is directed against the order passed by the learned Subordinate Judge, Rasipuram, allowing the delay condonation application filed by the respondent and thereby condoning the delay of 470 days in filing the application to set aside the ex parte decree of divorce.

2. The respondent is the wife of the petitioner. He has filed the the original petition in H.M.O.P.No.62 of 2016 against the respondent for divorce on the ground of cruelty. As the respondent did not file her counter and there was no representation on her behalf on 16.03.2017, she was set ex parte and thereafter, an ex parte decree was passed on 22.03.2017 thereby dissolving the marriage solemnized between the parties on 14.03.2012. On coming to know about the ex parte decree passed against her, the respondent filed an application seeking to set aside the ex parte decree with a delay along with an application for condonation of 470 days in filing the application to set aside the ex parte decree. That application was allowed by the court below on payment of cost. Challenging the order condoning the delay of 470 days in filing the application to set aside the ex parte decree, the petitioner is before this court with the instant revision petition.

3. I have heard the learned counsel for the petitioner and also perused the records carefully.

4. This civil revision petition is coming up today for admission. Considering the order that is going to be passed, no notice is necessary to the respondent.

5. According to the respondent, as she was not well and was taking treatment constantly, she could not contact her counsel and she was also not aware of the ex parte decree and therefore, there had occurred a delay of 470 days in filing the application to set aside the ex parte decree. On being satisfied with the reasons stated by the respondent for the delay, the court below held that the circumstances of the case required an opportunity to be given to the respondent for contesting the divorce petition and therefore, condoned the delay by exercising its discretion. On going through the order impugned in this revision, this court does not find any illegality or irregularity in the reasoning given by the court below and as such this court does not want to interfere in the discretion exercised by the court below. Thus, the revision fails and the same deserves only to be dismissed.

In the result, this civil revision petition is dismissed and the order of the court below is confirmed. However, considering the fact that the petition for divorce is pending since 2016, the court below is directed to dispose of the original petition within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

// True Copy//

Sub Assistant Registrar

kmk

To

The Subordinate Judge, सतयमेव जयते
Rasipuram, Namakkal District.

+1cc to Mr.S.Senthil, Advocate, SR.No.13784.

WEB COPY

C.R.P.No.679 of 2020

PPA(CO)

CSR: 13.03.2020