

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.P.No.7944 of 2019

in

C.M.A.SR.No.39306 of 2019

(Heard through video-conferencing)

Tharadevi

.. Petitioner/Appellant

Vs.

R.Devendran @ Devendrakumar Sharma

.. Respondent/Respondent

Prayer: Civil Miscellaneous Petition filed under Section 19(3) of the Family Courts Act, praying to condone the delay of 285 days in filing the above C.M.A. against the order and decree passed in H.M.O.P.No.42 of 2015, dated 25.01.2018 on the file of the Family Court, Villupuram.

For Petitioner : Dr.S.Vidya

For Respondent : Mr.S.Seralathan

ORDER

(The Order of the Court was made by R.Subbiah, J)

This Miscellaneous Petition has been filed seeking condonation of delay of 285 days in preferring the Civil Miscellaneous Appeal against the order and decree dated 25.01.2018 passed in H.M.O.P.No.42 of 2015 on the file of the Family Court, Villupuram, as against the decree of divorce granted by the said Court.

2. Though very many averments have been made in the affidavit filed in support of the petition with regard to the merits of the matter, the relevant factors which are necessary to decide this petition alone are stated herein.

3. According to the learned counsel for the petitioner/appellant/wife, the decree of divorce was passed on 25.01.2018. The appeal ought to have been filed on or before 10.06.2018. She is not having money to engage a Lawyer to file the appeal. Thereafter, she was advised by her well-wishers and friends to approach the Legal Aid Services Committee, Villupuram. Then, she contacted the Legal Aid Services Committee, which had appointed the counsel for filing the above appeal. After perusing all the records, the learned counsel for the petitioner had advised to

file the present appeal with petition to condone the delay in filing the appeal. In this process, the delay of 285 days had occurred. Hence, the present petition is filed to condone the said delay.

4. Countering the above submissions, a detailed counter affidavit had been filed by the respondent-husband denying the averments made in the affidavit filed in support of the condone delay petition with regard to the merits of the matter. It is the specific contention of the respondent-husband that the present appeal has been filed with a delay purposely only to harass the respondent-husband and to cause mental agony to the parents of the respondent and hence, he prayed for dismissal of the condone delay petition.

5. Be that as it may. The petitioner/appellant will have a chance to contest the matter in the appeal, if the delay is condoned. Accordingly, in the interest of justice and also taking into account the facts and circumstances of the case, the petition is allowed and the delay is condoned.

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(R.P.S.J) (C.S.N. J)
17.07.2020

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Speaking Order: Yes

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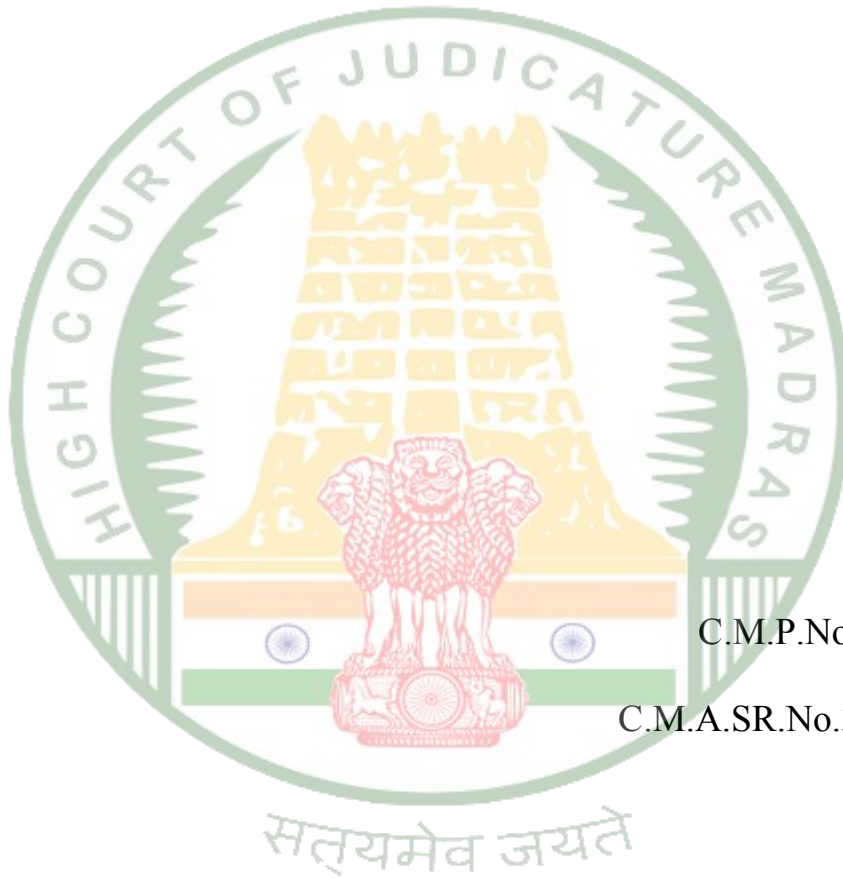
The Judge, Family Court, Villupuram.



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and
C.SARAVANAN, J

CS



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