

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.2670 of 2018 and
CMP No.15889 of 2018

Vengadessane ... Petitioner

Vs

Lalitha ... Respondent

Prayer: The Civil Revision petition filed under Article 227 of the Constitution of India, against the order passed in IA No.135 of 2018 in MOP No.541 of 2016, dated 06.08.2018 on the file of the Family Court, Puducherry.

For Petitioner : Mr.C.Elangovan

For Respondent :No appearance

ORDER

The petitioner challenges the order of the family Court, condoning the delay of 326 days in filing the petition to set aside the exparte order for divorce granted on 07.02.2017.

2. The petitioner filed MOP NO.541 of 2016, seeking divorce on the ground of cruelty and desertion. Since the respondent did not appear despite service, she was set exparte and an exparte decree for divorce was passed on 07.02.2017. The respondent filed the instant application seeking condonation of delay of 326 days in filing an application to set aside the exparte decree claiming that notice in the original petition was not served on her and that the petitioner husband had taken advantage of her absence in Pondicherry in view of her mother's heart surgery at Chennai and got the notice returned. She claimed that she came to know about the exparte decree on 18.01.2018 and filed the present application seeking to condone the delay of 326 days to set aside the exparte decree.

3. The trial Court upon consideration of the facts and circumstances of the case concluded that the notice in the MOP was not served properly and the notice was returned as unclaimed. Therefore, the learned Family Judge held that it is a fit case where the delay should be condoned and the petitioner should be given an opportunity to contest the claim on merits. It would not be out of place to point out that two children

were born out of the said marriage. However, I do not see any reason to interfere with the discretion exercised by the learned Family Judge.

4. In view of the above, the revision fails and it is accordingly dismissed. No costs. Consequently connected miscellaneous petition is closed.

11.11.2020

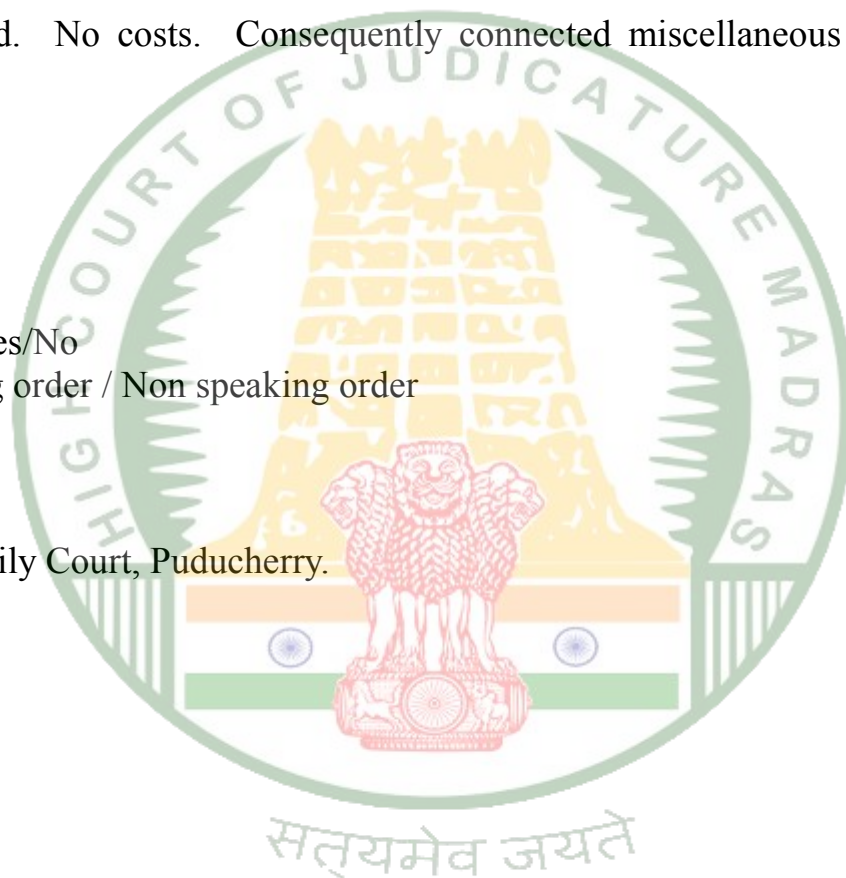
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Index: Yes/No

Speaking order / Non speaking order

To

The Family Court, Puducherry.

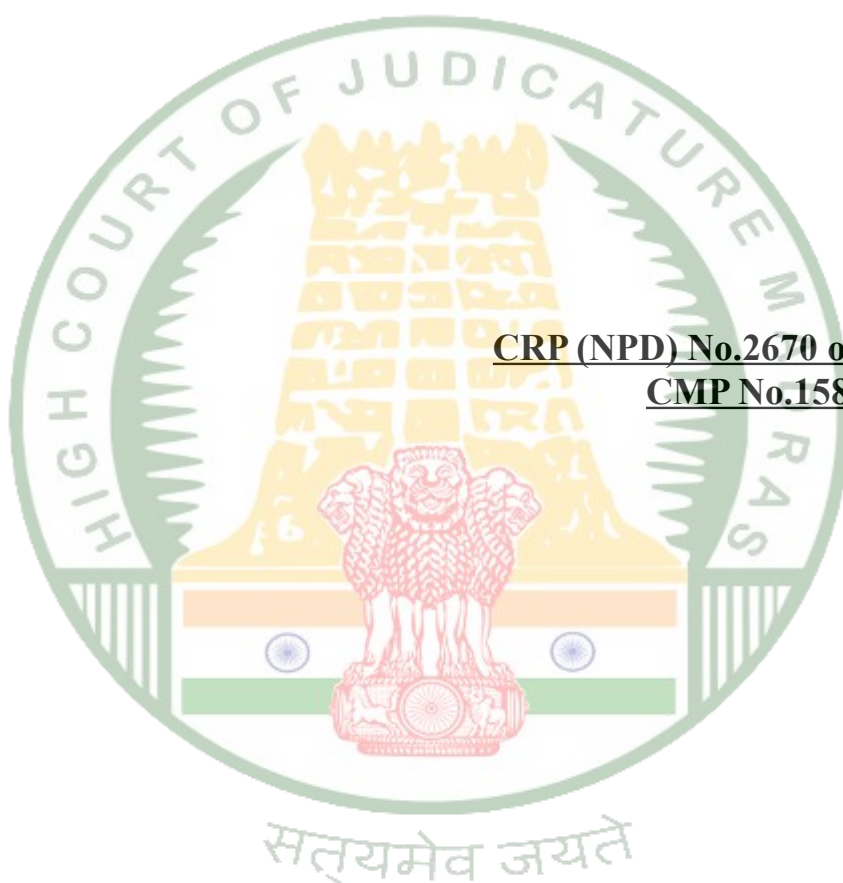


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