

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.09.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

C.M.P. No.9714 of 2020 in  
C.M.S.A. SR. No.48866 of 2020

S.Suresh Kumar

.. Petitioner/Appellant

versus

Akilandeswari

.. Respondent/Respondent

Prayer in C.M.P. No.9714 of 2020: Petition filed under Section 5 of the Limitation Act, 1963 to condone the delay of 1154 days in filing the Civil Miscellaneous Second Appeal in C.M.S.A. SR. No.48866 of 2020.

Prayer in C.M.S.A. SR. No.48866 of 2020: Appeal filed under Section 28(1) of the Hindu Marriage Act 1955 and under Section 100 of C.P.C. against the judgment and decree passed in C.M.A. No.02 of 2013 dated 17.09.2016 on the file of the Principal District Judge at Perambalur confirming the judgment and decree passed in H.M.O.P. No.81 of 2011 dated 17.07.2012 on the file of the Subordinate Judge at Perambalur.

For petitioner : Ms.M.Rakhi

ORDER

The petition has been filed to condone the delay of 1154 days in filing the above un-numbered Civil Miscellaneous Second Appeal.

2.Heard the learned counsel for the petitioner.

3.It is seen that the petitioner filed H.M.O.P. No.41 of 2009 before the Sub Court, Mettur under Section 12(1)(b) of the Hindu Marriage Act and the same was transferred to Sub Court, Perambalur and re-numbered as H.M.O.P. No.81 of 2011. Since the petitioner was not able to produce relevant medical evidence to show that the respondent was suffering from mental disorder and psychological depression, the petition filed for seeking decree of nullity of the marriage that took place on 14.09.2008 was

dismissed by the Trial Court. As against which C.M.A. No.2 of 2013 was filed before the learned Principal District Judge, Perambalur. Finding no infirmity in the order passed by the Trial Court, confirming the same, the learned Principal District Judge, Perambalur dismissed the appeal. Thereafter, the petitioner has slept over the matter for more than three years. No sufficient explanation has been given for condoning the delay of 1154 days in filing the un-numbered Civil Miscellaneous Second Appeal. Therefore, this Court is not able to entertain the petition to condone the delay. Accordingly, this petition is dismissed. Consequently, C.M.S.A. SR. No.48866 of 2020 stands rejected.

Sd/-  
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

To

1. The Principal District Judge,  
Perambalur.
2. The Subordinate Judge,  
Perambalur.

+1cc to M.Rakhi, Advocate, Sr.No.30357

C.M.P. No.9714 of 2020 in  
C.M.S.A. SR. No.48866 of 2020

ssd (co)  
rr ii (20/11/2020)

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