



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **21.01.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **T.RAJA**

CRP (NPD) (MD) No.1370 of 2012

Revathi

... Petitioner/Petitioner/1st Plaintiff

versus

Mecia Sesu

... Respondent/Respondent/Petitioner

Civil Revision Petition filed under Section 115 of C.P.C. against the fair and decreetal order dated 30.06.2011 passed in I.A.No.1647 of 2011 in I.D.O.P.No.133 of 2004 on the file of the Principal District Court at Dindigul.

For Petitioner : Mr.K.Vamanan

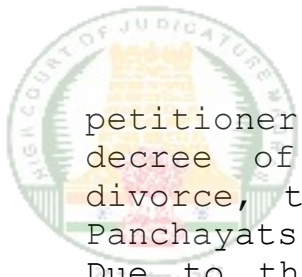
For Respondent : No appearance

ORDER

The Civil Revision Petition has been filed against the impugned order dated 30.06.2011 passed in I.A.No.1647 of 2011 in I.D.O.P.No.133 of 2004 on the file of the Principal District Court at Dindigul,

2. The learned counsel for the petitioner submitted that the petitioner married the respondent on 25.02.2002 at St. Miceal Church, Puthugramam, Kanniyakumari, as per the Christian rites and ceremonies. Out of the wedlock, a male child was born. Citing cruelty, the petitioner was forced to leave from the respondent. Thereafter, the respondent filed I.D.O.P.No.48 of 2003 for restitution of conjugal rights. In the meanwhile, a panchayat was held between the petitioner and respondent and in the said panchayat, the respondent agreed to withdraw I.D.O.P.No.48 of 2003. But, as against the decision of the Panchayatdars, the respondent obtained an order of ex parte decree for restitution of conjugal rights and thereafter, he filed I.D.O.P.No.133 of 2004 against the petitioner and one Nixen @ Kattaiyan on the ground of adultery, wherein, the respondent obtained an ex parte decree of divorce. Aggrieved against the same, the petitioner filed an application to set aside the ex parte decree of divorce along with an application before the learned Principal District Judge, Dindigul, to condone the delay of 1505 days in filing the application to set aside the ex parte decree of divorce. However, the learned Principal District Judge, Dindigul, by an order dated 30.06.2011, dismissed the same stating that the petitioner has not given any sufficient reasons for the said delay. Aggrieved over the same, the present Civil Revision Petition has been filed.

3. The learned counsel for the petitioner further submitted that the respondent, without issuing notice on the



petitioner as well as on the said Nixen, obtained an ex parte decree of divorce. After obtaining the ex parte decree of divorce, the respondent married another woman. Though number of Panchayats were held, the respondent refused to take back her. Due to the ex parte decree of divorce, she was put to mental sufferings and therefore, she was not able to file the application to set aside the ex parte decree passed in I.D.O.P.No.133 of 2004 in time. Hence, a delay of 1505 days had occurred in filing the said application. Furthermore, since the petitioner was unaware of the pendency of the divorce proceedings, the said delay has occurred. However, the learned Principal District Judge, Dindigul, without considering the said reasons, dismissed the application in I.A.No.1647 of 2011 in I.D.O.P.No.133 of 2004.

4. The learned counsel for the petitioner submitted that the respondent had made false allegation of adultery against the petitioner and without proving the same, the respondent obtained the ex parte decree of divorce. But, the said aspect has not been considered by the Court below. Therefore, the order is liable to be quashed .

5. Heard the learned counsel for the petitioner and perused the materials available on record. However, there is no representation for the respondent.

6. Though the petitioner has given reason for the delay in filing the application to set aside the ex parte decree of divorce, this Court is unable to find any merits and justification, for the reason that after the settlement between the parties in the panchayat, the petitioner has not gone back to live with the respondent and as the petitioner remained out of touch with the respondent, he has rightly moved I.D.O.P.No.133 of 2004 against the petitioner and obtained the decree for divorce and thereafter, he also got married another woman. Therefore, this Court is not inclined to entertain the Civil Revision Petition.

7. Accordingly, the Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar (CS)



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TO

The Principal District Court, Dindigul.

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