



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P(MD).No.842 of 2020 and

CMP(MD).No. 5664 of 2020

WEB COPY

Rajadurai

... Petitioner

Vs.

Pavithra

... Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 11.12.2019 made in I.A.No.3 of 2019 in HMOP.No.160 of 2018 on the file of Family Court, Sivagangai.

For Petitioner : Mr. V.S. Kumaraguru

ORDER

This Civil Revision Petition is directed against condoning the delay of 143 days in filing a petition to set aside the ex parte decree.

2. According to the revision petitioner / husband, each and every day delay has to be explained by the respondent / wife, whereas, she has made a *omnibus* statement that she was suffering from Jaundice and hence, she could not appear. In fact, she has appeared in HMOP and only with an ulterior motive to drag on the proceedings, she had absented herself. Therefore, the delay shall not be condoned without sufficient cause.

3. . Admittedly, the main HMOP is for divorce. It is always fair that the petitioner gets an order on the merits of the case and not on technicalities. If the condone delay petition is dismissed, it will cause grave prejudice to the respondent / wife, without having any opportunity to contest the case on merits.

4. The trial Court has rightly condoned the delay and permitted the petitioner to contest the case on merits. It is well settled that substantial justice shall be done and that the doors of the courts shall not be closed on technicalities. Therefore, I do not find any infirmity in the order passed by the Trial Court.

5. Hence, a direction is given to the Judge, Family Court, Sivagangai to dispose of HMOP.No.160 of 2018, as expeditiously as possible, in any event, not later than six months from the date of receipt of a copy of this order.



6. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

trp

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Judge, Family Court, Sivagangai.

+1 CC to M/s.V.S. KUMARAGURU, Advocate (SR-21854[F] dated 11/11/2020)

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KMV(CO)

AP(27/11/2020) 2P 3C