



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Civil Appellate Jurisdiction)

Tuesday, the First day of September Two Thousand and Twenty

WEB COPY

PRESENT

The Hon'ble Mr.Justice M.SATHYANARAYANAN

and

The Hon'ble Mr.Justice P.RAJAMANICKAM

CMP (MD) No.4099 of 2019

IN

CMA (MD) No.SR16181 of 2019

THIYAGARAJAN

... PETITIONER/APPELLANT

Vs

SARASWATHI

... RESPONDENT/RESPONDENT

Prayer in CMP(MD) No.4099/ 2019:

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to condone the delay of 391 days in filing the above Civil Miscellaneous Appeal.

Prayer in CMA(MD) No.SR16181/ 2019:

To set aside the Fair and Decreetal Order dated 06.02.2018 passed in HMOP.No.180 of 2017 before the Family Court Judge, Sivagangai.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.G.PRABHU RAJADURAI, Advocate for the petitioner and of MR.S.MUTHALRAJ, Advocate on behalf of the respondent, the court made the following order:-

[Order of the Court was made by **M. SATHYANARAYANAN, J.,**]

This Court heard the submissions of Mr.G.Prabhu Rajadurai, learned counsel appearing for the petitioner and Mr.S.Muthalraj, learned counsel appearing for the respondent.

2. The husband is the petitioner and challenging the dismissal of the petition for divorce, he has filed this Civil Miscellaneous Appeal with a delay of 391 days.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to Paragraph No.4 of the affidavit filed



in support of this petition and would submit that because of the fact that the petitioner is a Lathe worker, he is extremely finding it difficult to get a job and hence, the delay had occurred.

4.However, the learned counsel appearing of the respondent has strongly opposed this petition by stating that in the absence of any proper explanation, such a huge delay cannot be condoned.

5.This Court upon hearing the rival submissions, is of the considered view that for allowing this petition, the petitioner is to be put on terms.

6. In the result, this civil miscellaneous petition is ordered subject to the condition that the petitioner/ husband shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the respondent / wife by way of Pay Order or Demand Draft through the Bank, within a period of three weeks from today and shall file a memo to that effect through e-mail to the Registry. The Registry on receipt of the said memo, shall number the Civil Miscellaneous Appeal, if the papers are otherwise in order, list it for admission and print the name of Mr.S.Muthalraj, learned counsel for the respondent / wife.

sd/-
01/09/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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.

COPY TO:
THE REGISTRAR (JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CMP(MD) No.4099 of 2019 IN
CMA(MD) No.SR16181 of 2019
Date :01/09/2020

PM
SRS/ AKM/ SAR-II/ 03.09.2020/ 2P/3C

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