



IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 26.02.2021

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. (PD) No.368 of 2021  
and  
C.M.P.No.3103 of 2021

M.Keerthana

...Petitioner

Vs

V.Gopi

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 01.02.2021 made in I.A.No.3 of 2020 in F.C.O.P.No.178 of 2019 passed by the learned District Judge, Family Court, Namakkal.

For Petitioners : Mr.E.Sathiyaraj

#### O R D E R

The limited prayer sought for in the present petition is to set aside the fair and decreetal order dated 01.02.2021 made in I.A.No.3 of 2020 in F.C.O.P.No.178 of 2019 passed by the learned District Judge, Family Court, Namakkal.

2. The learned counsel for the petitioner submitted that the reason given by the respondent for the delay in filing the interlocutory application was not satisfactory. However, the Court below liberally allowed the petition, which would cause prejudice the right of the petitioner. The learned trial Judge failed to consider the ex-parte order passed on 16.03.2020 and subsequently passed another ex-parte order on 12.08.2020. Subsequently, the respondent filed set aside petition for condoning of delay of 46 days on 23.10.2020. Though the respondent has knowledge about the exparte decree, he filed the said petition with delay of 46 days with an intention to drag on the proceedings. Therefore, the learned trial Judge ought to have dismissed the said petition. Further, the learned counsel for the petitioner would submit that the respondent withdrawn the Restitution of Conjugal rights petition in F.C.O.P.No.1 of 2020 before the same Court on 18.01.2021, sSince the respondent has no idea or interest to live with the petitioner. In order to harass the petitioner, the respondent filed set aside petition in the Divorce petition. Without considering the facts, the learned trial Judge allowed the petition and hence, the same is liable to be dismissed.



3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. On a perusal of the adjudication orders, it is seen that F.C.O.P.No.1 of 2020 was posted for filing counter affidavit on 03.02.2020, but the same was not filed by the respondent till 12.10.2020. Thereafter, the entire nation has been facing the difficult situation of lock down for the past one year. Due to the pathetic situation, the Court below did not proceed further in this matter. Subsequently, the respondent filed set aside petition for the condoning the delay of 46 days on 23.10.2020. Though the respondent, having full knowledge about the exparte decree, filed the said petition with a delay of 46 days with an intention to drag on the proceedings. The Court below had rightly come to the conclusion that Rs.500/- can be paid as costs for non-appearance.

5. In view of the present stage of the petition in I.A.No.3 of 2020 in F.C.O.P.No.178 of 2019 and also taking into account that the proceedings was originally initiated in the year 2019, it would be appropriate to direct the learned Judge, Family Court, Namakkal to complete the proceedings, as expeditiously as possible. The parties are directed to co-operate with the proceedings without taking unnecessary adjournments.

6. Accordingly, the Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sbn

To  
The District Judge,  
Family Court,  
Namakkal.

C.R.P. (PD) No.368 of 2021  
and  
C.M.P.No.3103 of 2021

SMI (CO)  
B.VC(14.07.2021)