

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.NPD.No.3294 of 2018

and

C.M.P.No.18645 of 2018

Gandhi

... Petitioner

Vs.

Kamala @ Hemalatha

... Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the order dated 14.09.2018 in I.A.No.338 of 2017 in O.S.No.10 of 2015 on the file of the District Munsif-cum-Judicial Magistrate, Nannilam.

For Petitioner : Mr.Bhagavath Krishnan for
Mr.Srinath Sridevan

For Respondent : Mr.A.Muthukumar

ORDER

This Civil Revision Petition is directed against the order and decretal order passed in I.A.No.338 of 2017 in O.S.No.10 of 2015 dated 14.09.2018 on the file of the learned District Munsif-cum-Judicial Magistrate,

Nannilam, thereby allowing the petition to condone the delay of 254 days in filing the application to set aside the ex-parte decree on condition that the petitioner is directed to deposit a sum of Rs.30,000/- and also directed the petitioner to pay a sum of Rs.3,000/- as interim maintenance till the disposal of the suit.

2. The petitioner is the husband and the respondent is the wife. They got married in the year 1989 and thereafter, they got separated due to misunderstanding between them. In fact, the husband filed a petition for divorce and the same was allowed by the Trial Court. It was set aside by the First Appellate Court and the same was confirmed by this Court. Thereafter, the respondent/wife filed the suit for maintenance claiming maintenance of a sum of Rs.3,000/- per month.

3. Admittedly, the petitioner is a retired Civil Supplies Corporation employee. While being so, the petitioner was unable to appear before the Trial Court and he was set ex-parte. Therefore, the petitioner was affected by Jaundice and as such, he was under going treatment for Jaundice and as such, he could not able to meet his counsel to file a petition to set aside the ex-parte decree immediately. Therefore, there was a delay of 254 days in

filing the application to set aside the ex-parte decree. It was allowed by the Trial Court on condition that the petitioner is directed to deposit a sum of Rs.30,000/- to the credit of the suit and pay a sum of Rs.3,000/- as interim maintenance till the disposal of the suit. As directed by the Court below, the petitioner deposited the sum of Rs.30,000/- to the credit of the suit. With regard to the interim maintenance of Rs.3,000/-.

4. Considering the above facts and circumstances, this Court is inclined to modify the condition to the effect that the petitioner is directed to pay a sum of Rs.2,000/- as interim maintenance till the disposal of the main suit. The respondent is permitted to withdraw the amount deposited by the petitioner from the credit of the suit.

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

kv

Index : Yes/No

Internet : Yes/No

G.K.ILANTHIRAIYAN,J.

Kv

To

1. The District Munsif-cum-Judicial Magistrate,
Nannilam.
2. The Section Officer,
V.R.Section, High Court of Madras.



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