



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Thursday, the Eighteenth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr.Justice R.SUBRAMANIAN

CMP(MD) . No.1257 to 1259 of 2020

in Rev.Aplc(MD) SR.Nos.89205 to 89207 of 2019

WEB COPY

Balasankary

... Petitioner/ Respondent
in all CMPs

Vs

S.Kandesh Kumar

... Respondent/Petitioner
in all CMPs

Prayer in all CMPs :-

Petitions filed under section 5 of the Limitation Act to condone the delay of 35 days in filing review petition Review.SR.No.89205/2019 in Tr.C.M.P.(MD).No. 229 of 2019, Review.SR.No.89206/2019 in Tr.C.M.P.(MD).No. 230 of 2019 and Review.SR.No.89207/2019 in Tr.C.M.P.(MD).No. 231 of 2019 respectively and thus render justice.

Prayer in Review SR.No.89205, 89206, and 89207 of 2019:-

Review Petitions filed under section 114 and Order XL VII Rule of C.P.C. to allow review applications and set aside this Hon'ble Court order dated 16.10.2019 made in Tr.CMP(MD) Nos.229, 230 and 231 of 2019.

Prayer in Tr.CMP(MD) Nos.229 to 231 of 2019:-

Petitions filed under section 24 of the Code of Civil Procedure to withdraw and transfer the GWOP.No.2 of 2018 and HMOP Nos.34 and 263 of 2018 pending on the file of the Family Court, Madurai to the Principal District Court, Srivilliputtur.

ORDER

This Petition coming on for hearing on this day, upon perusing the petition and affidavit & Material Papers of this petition and upon hearing the arguments of Mr.R.Karunanidhi, advocate for the petitioner. This Court made the following order:

By order dated 16.10.2019, made in Tr.C.M.P.(MD)Nos.229, 230 and 231 of 2019, this Court, taking note of the fact that the husband is a resident of Qatar, had transferred the cases that were pending before the Family Court, Madurai, to the Principal District Judge, Srivilliputhur.

2. While ordering the said transfer, this Court had taken note of the fact that the husband will be put to inconvenience, if he is to appear before the Family Court, Madurai, which requires personal hearing of the parties for every hearing. After the said order of transfer was passed, the wife had gone ahead and filed M.C.No.3 of 2020 before the Family Court at Madurai, from which Court, the other three cases namely, G.W.O.P.No.2 of 2018 and H.M.O.P.Nos.34 and 263 of 2018 were transferred to the Principal District Court, Srivilliputhur. Thereafter, the wife had sought for review of the



orders of this Court made in Tr.C.M.P.(MD)Nos.229, 230 and 231 of 2019 and had filed C.M.Ps. 1257, 1258 and 1259 of 2020, seeking condonation of delay of 35 days in filing the review applications.

3. Though the delay is only 35 days, I am not inclined to condone the delay, since I find that the action of the wife in filing an application for maintenance before the Family Court at Madurai, after having suffered an order of transfer at the hands of this Court, only with a view of the drag the husband to the Family Court, Madurai, is vindictive in nature.

4. The fact that the husband is working at Qatar is admitted. This Court had taken note of that fact and transferred the matter to the Principal District Court, where the presence of the husband is not required for every hearing. The distance between Madurai and Srivilliputhur is not much. Since the matters are before the Principal District Court, Srivilliputhur, the petitioner/wife also need not to attend every hearing in person and she can engage a lawyer to attend the non effective hearings and she can appear before the Court only on effective hearings and thereby, the inconvenience caused to the parties will be largely reduced.

5. I find that there is a tendency among lawyers to misuse the availability of remedies to wives before various Forum under various enactment to harass the husbands, who are residing abroad. This tendency has to be curbed. Hence, I do not see any merit in the condonation delay petitions. Accordingly, all the petitions are dismissed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TO

1.The Judge,Family Court, Madurai.

2.The Principal District Court, Srivilliputhur.

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-12288[F] dated 18/03/2021)

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KB(08.04.2021) 2P 4C