



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Twenty Third day of November Two Thousand and
Twenty One

WEB COPY

PRESENT

The Hon`ble Mr.Justice S.VAIDYANATHAN
and
The Hon`ble Dr.Justice G.JAYACHANDRAN

CMP(MD) No.9117 of 2021
in
CMA(MD) SR.No. 54565 of 2021

1 I.RATHI MEENA,

2 M. AMITH KANNA,

... APPELLANTS/PETITIONERS

Vs

NIL

... RESPONDENT/DEFENDANTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 1161 days for preferring an appeal against the judgment delivered by the learned Judge, Family Court, Madurai in H.M.O.P. No. 330 of 2016 vide judgment dated 02.11.2016 and to get a consequential relief so as to retrieve their marital status as wife and husband by virtue of our marriage which has been taken place on 13.12.2013 at Maharajan Ambalam - Rajammal Marriage hall, Iravathanallur, Madurai.

PRAYER IN CMA(MD) SR.No.54565 of 2021:

To call for the entire records pertaining to the judgment delivered by the learned Judge, Family court, Madurai in H.M.O.P.No. 330 of 2016 vide judgment dated 02/11/2016 and set aside the same and consequently order retrieving the marital status of the appellants as wife and husband by virtue of their marriage which has been taken place on 13/12/2013 at Maharajan Ambalam - Rajammal Marriage Hall, Iravathanallur, Madurai.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.R.ANAND, Advocate for the petitioner, the court made the following order:-

It is a case where the petitioners herein/appellants dissolved their marriage by mutual consent and got a decree of divorce by a

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competent Court on 02.11.2016, it appears that though on record, they have got their marriage dissolved, however, good sense has prevailed upon them to re-unite and they started living together within six months from the date of decree of divorce.

2.They were not aware of the legal position that the decree of dissolution of marriage will stand unless nullified or they remarry again. Presently, they face some difficulty in recording the parentage of their girl child, who is now pursuing 7th Standard in TVS Lakshmi School at Madurai. This impediment had brought the petitioners to this Court. They have filed CMA before this Court to set aside the decree of divorce, dated 02.11.2016, by mutual consent, passed by the learned Judge, Family Court in HMOP.330 of 2011, with a delay of 1161 days.

3.This Court, on hearing the learned counsel for the appellants/petitioners herein and perusing the affidavit filed and going through the facts of the case is of the opinion that it is not a matter where the appellate jurisdiction of this Court can be exercised. Hence, it is advised to the appellants/petitioners herein to approach the Family Court, which has passed the decree of divorce and place the subsequent events that took place after the decree of divorce and seek for revocation of the order passed by the Family Court in HMOP.330 of 2016, dated 02.11.2016 and permit them to withdraw the HMOP.330 of 2016 recording the compromise entered between the parties.

4.This Court pass the above order in exercise of its power under Article 227 of the Constitution of India in order to give quietus to the issue and enable the spouse to continue their marital life peacefully without causing any embarrassment to the minor child regarding the paternity.

5.The appellants/petitioners herein shall move the Family Court, Madurai within a period of thirty days from the date of receipt of a copy of this order. If the petitioners/appellants make request to the Family Court for in-camera proceedings, same may be considered positively.

6. With these directions, this civil miscellaneous petition is disposed of.

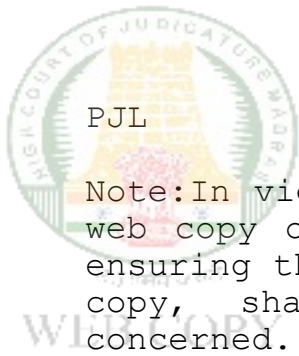
sd/-

23/11/2021

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/ /2021

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



PJL

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,
MADURAI.

ORDER
IN
CMP(MD) No.9117 of 2021
in
CMA(MD) SR.No. 54565 of 2021
Date :23/11/2021

PKP/JC/SAR-3/29.11.2021/3P/2C