



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.P (MD) No.5601 of 2018
in
C.M.A (MD) SR.No.18764 of 2018

R.Arulsagayaraj ... Petitioner/Appellant

Vs.

Jacqueline Mary ... Respondent/Respondent

Prayer in C.M.P (MD) No.5601 of 2018 : This petition is filed under Section 5 of the Limitation Act, to condone the delay of 154 days in preferring a appeal before this Court as against the judgment passed by the learned Principal District Court, Thanjavur, Thanjavur District in I.D.O.P.No.108 of 2013, dated 12.10.2017.

Prayer in C.M.A (MD) SR.No.18764 of 2018: This Civil Miscellaneous Appeal is filed under Section 55 of the Indian Divorce Act, to set aside the order passed by the learned Principal District Court, Thanjavur, Thanjavur District in I.D.O.P.No.108 of 2013 dated 12.10.2017.

For Petitioner : No Appearance
For Respondent : Mrs.J.Shakila

ORDER

This Civil Miscellaneous Petition has been filed to condone the delay of 154 days in preferring the above appeal.

2.Today, when the matter is taken up for hearing, the learned counsel appearing for the petitioner is not present. The facts of the case is that the petitioner herein is the husband and the respondent herein is the wife and the petitioner filed a divorce petition in I.D.O.P.No.108 of 2013 and the same was dismissed. Aggrieved over the same, the petitioner filed appeal with a delay of 154 days.

3.The learned counsel appearing for the respondent would submit that the petitioner filed the divorce petition with false allegations against the respondent and there is no infirmity in the order passed by the Court below. She would further submit that the respondent filed maintenance petition in M.C.No.7 of 2016 and the



same was ordered on 24.07.2017 and till date maintenance has not been paid and hence, she would pray for dismissal of this petition.

4.Considering the submissions of the learned counsel for the respondent, I am not inclined to condone the delay. Unless the maintenance is paid, the petitioner cannot prosecute the matter. Accordingly, this petition is dismissed. In view of the order passed in CMP(MD)No.5601 of 2018, the connected C.M.A.(MD)SR.No.18764 of 2018 is rejected at the SR stage itself. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

GNS

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 Principal District Court,
Thanjavur,
Thanjavur District.

Order made in
C.M.P (MD) No.5601 of 2018 in
C.M.A (MD) .SR.No.18764 of 2018
01.03.2021

MJ(CO)

SRS (12/03/2021) 2P : 2C