



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

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CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP. No.3450 of 2022

V. Balamurugan

...Petitioner

versus

M.Shnega

...Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.1 of 2021 in FCOP.No.476 of 2017 dated 15.02.2022 on the file of the Family Judge, Salem.

For Petitioners : Mr.M.Kalaiyaran

ORDER

This Civil Revision Petition is filed challenging the order passed in I.A.No.1 of 2021 in FCOP.No.476 of 2017 dated 15.02.2022 dismissing the petition for default. The said IA was filed to condone the delay of 354 days in filing petition to set aside exparte decree.

2. The respondent/wife filed a petition for restitution of conjugal rights in FCOP.No.476 of 2017 and the petitioner failed to appear before the



court on the date fixed for hearing and hence, the said petition was decreed ex parte on 12.09.2019. Thereafter, the petitioner herein has filed a petition to set aside the ex parte decree passed against him by filing petition under Order 9 Rule 13 CPC. He also filed a petition to condone the delay of 354 days in filing petition to set aside the ex parte decree in I.A.No.1 of 2020. Since the petitioner has failed to appear before the court continuously, I.A.No.1 of 2020 was dismissed for default on 15.02.2022. Aggrieved by the said order, the petitioner has come up before this court by way of this petition.

3. If the petition filed by the petitioner to condone the delay is dismissed for default, it is for the petitioner to file an appropriate petition for restoration of the same before the very same court. When the petitioner has remedy before the very same court under Code of Civil Procedure, it is not open to him to invoke the supervisory jurisdiction of this court under Article 227 of the Constitution of India. Therefore, this Civil Revision Petition is dismissed with liberty to the petitioner to approach the very same court for restoration of I.A.No.1 of 2020, if so advised.

31.10.2022

gv



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S.SOUNTHAR.,J.

Gv

To

The Family Judge, Salem.

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