

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.M.P.No.15325 of 2021 in
C.M.A. SR. No.63023 of 2021

Tamilselvi

... Petitioner

-vs-

Muthukumaran

... Respondent

Prayer: Petition filed under Section 5 of the Limitation Act to condone the delay of 288 days in preferring the above appeal.

Prayer in C.M.P.No.15325 of 2021: To condone the delay of 288 days in preferring the above said Civil Miscellaneous petition CMA SR. No. 63023 of 2021 against order and decreetal order dated 10.06.2019 made in IA No.2 of 2019 in MOP No.135 of 2017 on the file of Family Court, Pondicherry.

Prayer C.M.A. SR. No.63023 of 2021: To set aside the order and decreetal order dated 10.06.2019 made in IA No.2 of 2019 in MOP No.135 of 2017 on the file of Family Court, Pondicherry and allow this appeal and pass such other order.

For petitioner : Mr.P.R.Thiruneelakandan

For respondent : No appearance

ORDER

[Order of this Court was delivered by T.RAJA, J.]

This petition has been filed to condone the delay of 288 days in preferring the above appeal against the common order dated 10.06.2019 made in I.A. No.2 of 2019 in M.O.P. No.135 of 2017 on the file of the Family Court, Pondicherry, allowing the petition for visitation right, permitted the petitioner to visit her daughters, namely, Ananya and Navyaa on every Sunday from 10.00 a.m. to 3.00 p.m. with a direction to the respondent not to prevent the petitioner from offering money, gifts, eatable, clothes etc. to her children during her

visitation hours and dismissing the petition filed for custody of the minor children.

2.Learned counsel appearing for the petitioner submitted that since the Mediators/Counsellors in the Court asked the petitioner to hand over her children, listening to their advice, she has handed over her minor children to the respondent husband in the Court with the belief that he would come forward with the proposal for re-union, but, he has not come back as her expectations. In the meantime, due to her illness, she could not approach this Court and file the appeal within the reasonable time, which resulted in the delay of 288 days in preferring the above appeal.

3.But, we are unable to accept the concocted story made by the petitioner. When the matrimonial dispute is lingering between them, it is the own case of the petitioner that she handed over the children to the Court only on the advice made by the counselors during the counselling between the parties. Since she has not come to renew her request for interim custody of the children and has kept quite for 288 long days in preferring the above appeal, we could presume that she deserted her own minor children, after the impugned decretal order was passed on 10.06.2019. As the children are safely with their father now, the order dated 10.06.2019 granting custody of the minor children, namely, Ananya and Navyaa to the respondent father cannot be interfered with. Therefore, we are inclined to dismiss this petition filed by the petitioner on the ground that there is no sufficient cause shown to condone the delay. Accordingly, this petition stands dismissed. Consequently, C.M.A. SR No.63023 of 2021 stands rejected.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

vga

To

The Family Court,
Pondicherry.

C.M.P.No.15325 of 2021 in
C.M.A. SR. No.63023 of 2021

MT (CO)
PR (18/02/2022)