



C.R.P. No. 2367 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 2367 of 2022

and

C.M.P.No. 12160 of 2022

P.P.Pooja
D/o. R.P. Prakash

... Petitioner

Vs

Gowtham Anban,
S/o. S.Anban

... Respondent

PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair and final order dated 09.06.2022 made n I.A.No.1 of 2022 in O.P. No.4756 of 2015 on the file of learned 1st Addl. Principal Family Court, Chennai.

For Petitioner : Mr.D.R.Arun Kumar

For Respondent : No appearance



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ORDER

Challenging the impugned order passed in I.A.No.1 of 2022 in O.P.No. 4756 f 2015, on the file of I Addl. Principal Family Court, Chennai, which was filed by the respondent husband praying to set aside the exparte decree passed against him stating that at the relevant point of time, he was in Canada for studies and hence, he is not able to follow the court proceedings, that application was objected by the wife on filing her counter objections as if he had full knowledge about the proceedings, but he did not take any steps to file any application, however he remains exparte and only to drag on the proceedings, he filed the said application. Considering both side submissions, the trial court allowed the application with cost. Challenging the same, the present Civil Revision Petition has been filed.

2. Though notice was served on the respondent, there is no representation on the side of respondent.



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3. The learned counsel for Revision Petitioner would submit that proper reason was not assigned by the respondent husband to condone the delay of 1330 days. In spite of that, the trial judge allowed the application, as such, is not proper and it is unjustifiable one, on the other hand, he is very well knew about the proceedings, but suppressing the same and making allegation against his wife stating that behind his back, she obtained ex parte decree. Hence, he prayed to set aside the order passed by the trial judge.

4. Since the trial court handling the matrimonial dispute, which is having a liberal approach, and the issues involved in this case is to be decided on merits. Accordingly, the trial court allowed the application by imposing cost. However, on seeing the facts, wife has filed a petition for divorce in the year of 2015 and due to non-cooperation of the respondent herein, she obtained ex parte decree on 01.08.2016. Now, the respondent filed an application that after came down to India from Canada, he came to know about the ex parte decree and filed the application to set aside the same, which was allowed by the trial judge. Considering the fact that both of them are having one male child and the child is under the custody of wife



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and all these years, the respondent has not paid any maintenance and also not taken care of the child. In fact, there is possibility for a hostile settlement in a matrimonial dispute, so the respondent is to be given adequate opportunity to put forth his defence. In the said circumstances, the order passed by the trial court is confirmed. It is pertinent to note that all these years, the respondent has also not taken any steps to maintain the child. Therefore, this Court is inclined to direct the respondent to pay a sum of Rs.5000/- as interim maintenance to her until it is modified by the court of law from April 2023 onwards till the O.P. proceedings are closed and the trial judge is directed to dispose the case as early as possible. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

27.03.2023

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To
I Addl. Principal Family Court,
Chennai.

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T.V.THAMILSELVI, J.

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