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C.M.P.No.23532 of 2023
in
C.M.A.Sr.No.106148 of 2023

R.SUBRAMANIAN, J.
and
N.SENTHILKUMAR, J.

Though the delay is long, the respondent has abused the process of Court. Originally, the husband / the appellant herein filed HMOP.No.246 of 2013, complaining cruelty on the part of the respondent under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 on the file of the Sub-Court, Vellore. An exparte decree was passed on 01.04.2014 by the learned Sub-ordinate Judge, Vellore.

2.The respondent herein filed an application to condone the delay in seeking to set aside the exparte decree in I.A.No.57 of 2015. The said petition came to be dismissed on 02.04.2018. However, even during the pendency of the application for condonation of delay, the wife chooses to file O.P.No.958 of 2016 under Section 13(1)(i-b) of the Hindu Marriage Act and an exparte order came to be passed granting divorce and directing the appellant / husband to pay permanent alumni of Rs.13,00,000/-. This is nothing but an abuse of process of Court. Having known that the husband has obtained an exparte decree for



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divorce earlier and having applied to have it set aside, the wife could not have moved the Family Court for divorce for the second time in O.P.No.958 of 2016.

3.We are also satisfied with the reasons assigned in the affidavit filed in support of the petition to the effect that the petitioner came to know of the decree only when the notice in the Execution Petition was served on him. Hence, this petition is ordered and the delay in filing the appeal is condoned.

4.Registry is directed to number the appeal and list it 'for admission' on 22.12.2023. Registry is also directed to print the name of the learned counsel, Mr.K.Chandru for the respondent on that date.

Post on 22.12.2023.

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(R.S.M., J.) (N.S., J.)
19.12.2023

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