



C.R.P.No.3530 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.3530 of 2017
and C.M.P.No.16335 of 2017

V.Gopinath

...

Petitioner

Vs

1. Dharani

2. Minor. Priyadarshini

represented by Mother/Next Friend Dharani ... Respondents

Prayer:- Civil Revision Petition is filed under Section 115 of CPC, to set aside the Judgment and decree dated 13.06.2017 passed in I.A.No.64 of 2016 in O.S.No.34 of 2008 on the file of the Principal District and Sessions Court, Tiruvannamalai.

For Petitioner : Mr.R.Sreedhar

For R1 and R2 : Mr.D.Balachandran

ORDER

This Civil Revision Petition has been filed to set aside the Judgment and decree dated 13.06.2017 passed in I.A.No.64 of 2016 in O.S.No.34 of 2008 on the file of the Principal District and Sessions Court,



C.R.P.No.3530 of 2017

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Tiruvannamalai, thereby, dismissing the petition to condone the delay in filing the petition to set aside the exparte decree, due to the non compliance of the order passed by the Court below dated 25.04.2017, i.e, the condition to deposit $\frac{1}{4}^{\text{th}}$ of the arrears of maintenance, on or before 12.06.2017.

2. The petitioner is the husband of the first respondent. The petitioner and the first respondent got married and gave birth to the second respondent. Thereafter, due to misunderstanding between them, they got separated and as such the first respondent could not able to maintain herself and the second respondent and as such, filed a suit for maintenance in O.S.No.34 of 2008. After receipt of the suit summons, the petitioner failed to appear before the Trial Court and as such he was set exparte and an exparte decree was also passed by the Judgment and Decree dated 06.08.2009, thereby ordered monthly maintenance of Rs.12,000/- in favour of the first respondent and Rs.8,000/- in favour of the second respondent. Thereafter, the first respondent herein filed a divorce petition in H.M.O.P.No.25 of 2009 and the same was decreed by the decree dated



C.R.P.No.3530 of 2017

WEB COPY

3. Thereafter, the petitioner filed a petition to set aside the exparte decree with a condone delay petition to condone the delay of 2410 days in filing the petition to set aside the exparte decree. The said petition was dismissed by an order dated 13.06.2017, due to the non compliance of the order passed by the Court below dated 25.04.2017, i.e, the condition to deposit $\frac{1}{4}^{\text{th}}$ of the arrears of maintenance, on or before 12.06.2017. Aggrieved by the same, this revision.

4. This Court while admitting this Civil Revision Petition granted an interim stay, on condition that the petitioner shall deposit $\frac{1}{4}^{\text{th}}$ share of the maintenance awarded by the Trial Court to the credit of O.S.No.34 of 2008. Accordingly, the petitioner had complied with the condition and subsequently, the respondents were also permitted to withdraw the same.



C.R.P.No.3530 of 2017

WEB COPY

5. Considering the above facts and circumstances, the condition imposed by the Trial Court has been complied with. Therefore, the Trial Court is directed to pass orders by setting aside the exparte decree and proceed with the Trial and complete the trial, within a period of six months from the date of receipt of a copy of this order.

6. With the above directions, this Civil Revision Petition stands disposed of. Consequently, connected Miscellaneous petition is closed. No costs.

11.01.2023

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

The Principal District and Sessions Court, Tiruvannamalai.

G.K.ILANTHIRAIYAN.J,

Page 4 of 5



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C.R.P.No.3530 of 2017

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C.R.P.No.3530 of 2017
and C.M.P.No.16335 of 2017

11.01.2023

Page 5 of 5