



C.R.P(MD)No.1767 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.1767 of 2010

Hedwige Mary

... Petitioner

-VS-

R.Murugan

... Respondent

PRAYER: Civil Revision Petitions are filed under Section 115 of the Civil Procedure Code to set aside the order passed in I.A.No.171 of 2008 on S.M.O.P.No.1 of 2002 on the file of the Principal Subordinate Court, Nagercoil, dated 23.03.2010.

For Petitioner : Mr.A.Mohan

For Respondent : Mr.S.Kanagarajan

ORDER

The present Civil Revision Petition has been filed challenging an order passed by the learned Subordinate Judge, Nagercoil, wherein the petitioner's application to condone the delay of 627 days to set aside the exparte decree of divorce was dismissed.



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2. According to the parties, they got married on 15.07.1991 and due to some matrimonial disputes, the husband has filed S.M.O.P.No.1 of 2002 before the Subordinate Court, Nagercoil for the relief of divorce. Since the wife had not appeared before the Court, an *exparte* decree of divorce was granted in favour of the husband on 13.07.2006. After the *exparte* decree, the husband is said to have contracted second marriage.

3. The wife filed I.A.No.171 of 2008 seeking to condone the delay of 627 days in filing an application to set aside the said *exparte* decree. The said application was dismissed by the learned Subordinate Judge. Challenging the same, the present revision has been filed by the wife.

4. According to the respondent/ husband, he is paying maintenance at the rate of Rs.5,000/- per month and he submits that he will pay the same till his retirement.

5. The respondent has filed an affidavit to the effect that he had handed over the demand draft of Rs.2 lakhs in favour of his elder daughter, namely M.Ramanya and another Demand Draft for a sum of Rs.2 lakhs in



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the name of his younger daughter, M.Aisha Jyothi. The husband has also handed over a Demand Draft for a sum of Rs.1 lakh in the name of his wife. In the said affidavit, the husband has also agreed that the wife shall continue to reside in Door No.5/182, VOC Street, Vadakkoor, Aralvaimozhi, Thovalai Taluk, Kanyakumari District till her lifetime.

6.In view of the said affidavit filed by the husband, the wife had agreed to withdraw the present revision petition. The learned counsel appearing for the revision petitioner has also made an endorsement to such effect.

7.In view of the affidavit filed by the husband, the following order is passed:

- i) The Revision Petition stands dismissed as withdrawn;
- ii) the wife shall continue to reside at Door No.5/182, VOC Street, Vadakkoor, Aralvaimozhi, Thovalai Taluk, Kanyakumari District till her life time;
- iii) the divorce decree granted by the learned Subordinate Judge, Nagercoil in S.M.O.P.No.1 of 2002 dated 13.07.2006 stands confirmed.



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iv) The wife, who is the guardian of her two minor children acknowledges receipt of Rs.5 lakhs through 3 (three) demand drafts.

No costs.

04.09.2023
(2/2)

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

The Sub Court,
Nagercoil.



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R.VIJAYAKUMAR,J.

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