



C.R.P.(MD) No.959 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2023

CORAM:

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

C.R.P.(MD) No.959 of 2023

Manoprabhu

... Petitioner

Vs.

Divya

... Respondent

Prayer :- Petition filed under Section 115 of the Code of Civil Procedure, prays to set aside the fair order and decretal order in I.A.No.27 of 2022 in HMOP No.50 of 2020 dated 08.11.2022 passed by the learned Additional Sub Judge, Thanjavur.

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondent : No appearance



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ORDER

This civil revision petition is preferred by the petitioner against the fair and decretal order in I.A.No.27 of 2022 in HMOP No.50 of 2020 dated 08.11.2022 on the file of the learned Additional Sub Judge, Thanjavur.

2. According to the revision petitioner, the said H.M.O.P.No.50 of 2020 was preferred by the revision petitioner/husband against the respondent/wife for divorce. The said HMOP was dismissed for default on 14.03.2023 for non-prosecution on the side of the petitioner. Thereafter, the petitioner herein filed I.A.No.27 of 2022 under Section 5 of the Limitation Act for condonation of delay of 376 days in filing the application for restoration of the petition in H.M.O.P.No.50 of 2020. However, the Court below dismissed the said application by stating that no sufficient cause was shown by the petitioner for restoration of the application. Aggrieved by this, the present revision petition is preferred.



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3. The learned counsel appearing for the revision petitioner would submit that the absence of the petitioner on the hearing date is not wanton or willful. The trial Court ought to have considered the application filed by the petitioner leniently and the trial Court failed to take note of the reasons stated in the affidavit for the non-appearance of the petitioner. Hence, he prays to allow this petition.

4. Inspite of notice being served, the respondent remained absent.

5. Considering the facts and circumstances of the case and the reasons attributed for non-appearance of the petitioner on the hearing dates and to afford reasonable opportunity to the petitioner to put forth his case and also in the interest of justice, this Civil Revision petition is allowed and the order dated 08.11.2022 in I.A.No.27 of 2022 passed by the learned Additional Sub Judge, Thanjavur is set aside. The learned Additional Sub Judge, Thanjavur, is directed to dispose the HMOP No.50 of 2020, without unnecessary adjournments by affording sufficient opportunities to the parties to putforth their case, within a period of six



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months from the date of receipt of a copy of this order. Accordingly, this

Civil Revision Petition is allowed. No costs.

19.07.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

The Additional Sub Judge,
Thanjavur.



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K.GOVINDARAJAN THILAKAVADI, J.

cp

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