



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Wednesday, the Fourteenth day of June Two Thousand and Twenty Three

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PRESENT

The Hon`ble Mr.Justice R.VIJAYAKUMAR

CMP(MD). No.774 of 2017
in
CMSA(MD).No.14 of 2013

E.Muthukumar,

... Petitioner/Appellant

Vs

Mangalalatha,

... Respondent/Respondent

Prayer :-

This Petition is filed under Order 9 Rule 9 of C.P.C to set aside the order of dismissal of default dated 15.11.2016 and restore the C.M.S.A.14 of 2013 on file.

Prayer in CMSA(MD). 14/ 2013 :

Appeal filed under section 100 of C.P.C and section 28 of Hindu Marriage Act against the decree and judgment dated 03.12.2012 passed in HMCMA 9 of 2011 by Learned IV Addl. District Judge, Tirunelveli reversing the decree and judgment dated 12.04.2011 passed in HMOP No.95 of 2010 by Learned Principal Sub-Judge, Tirunelveli.

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru.I.Pinaygash, Advocate for the Petitioner and of Thiru.T.Selvan, Advocate for the respondent, this Court made the following order:

This Civil Miscellaneous Petition has been filed to restore the appeal, which was dismissed for default on 15.11.2016.

2. According to the learned counsel appearing for the appellant, since his previous counsel was held up before the other Court, he could not appear on the said date and that has resulted in dismissal of the Civil Miscellaneous Second Appeal for default.

3. Considering the fact that there is no delay in filing the application to restore the appeal, this Court is inclined to allow the petition and hence, this restoration petition stands allowed.



CMP(MD)



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4. Registry is directed to restore the Civil Miscellaneous Second Appeal in C.M.S.A(MD) No.14 of 2013, to file.

Sd/-

Assistant Registrar (CS-III)

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// True Copy //

/06/2023

Sub Assistant Registrar(CS)

TO

1. The IV Additional District Judge, Tirunelveli.
2. The Principal Subordinate Judge, Tirunelveli.

Copy to:

The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai

ORDER DATED : 14/06/2023

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ORDER

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CMP(MD) . No.774 of 2017
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SI/(22.06.2023) 2P/ 4C