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C.M.P.No.5925 of 2024

C.M.P.No.5925 of 2024
in
C.M.A.SR.No.31589 of 2024
(Filing Number)

M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

[Order of the Court was made by
K.GOVINDARAJAN THILAKAVADI, J.,]

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 14.03.2024.

2. The petitioner - appellant is the wife, who has filed C.M.P.No.5925 of 2024 in C.M.A.SR.No.31589 of 2024 to condone the delay of 148 days in preferring the appeal against judgment and decree dated 04.07.2023 in H.M.O.P.No.21 of 2022 passed by the learned Family Judge, Family Court, Karaikal, on the grounds that are narrated in paragraph No.3 of the support affidavit which is extracted as hereunder:

'3. I humbly submit that after passing of the judgment and decree in the above HMOP, I got health issues and undergoing for treatment. So, it was very difficult to me to contact my advocate to prefer appeal against the HMOP. Hence, there is a delay of 148 days in filing the CMA. The delay in filing the above CMA is neither willful nor wanton, but due to the bona fide reason as stated supra. If the delay is not condoned, I would be put to great hardship and prejudice. On the contrary, the respondent will not be prejudiced in any manner. Ends of Justice and balance of



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convenience is in my favour.'

3. Mr.R.C.Paul Kanagaraj, learned counsel appearing on behalf of petitioner / appellant would submit that due to health conditions of the petitioner, she was unable to meet her counsel to give instructions and therefore, the said delay has occurred in preferring the appeal.

4. On the other hand, Mr.G.Santhanu, learned counsel representing Mr.T.L.Thirumalaiswamy, counsel on record for the respondent would submit that the grounds stated in the support affidavit are not sufficient to condone the delay. His further contention is that the petitioner - appellant ought to have been more diligent in preferring the appeal in time.

5. Keeping in view the averments stated in the CMP, which is supported by the affidavit of the petitioner and considering the facts and circumstances of the case on hand and with an intention of giving an opportunity to the petitioner, we are inclined to condone the aforementioned delay.

6. In view of the above, delay is condoned. Accordingly, this



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C.M.P.No.5925 of 2024 is ordered. Registry is directed to number the main appeal, if it is otherwise in order.

7. It is stated that the petitioner's husband filed another CMA being C.M.A.No.52 of 2024 against the dismissal order of divorce dated 04.07.2023 in H.M.O.P.No.57 of 2022 on the file of the Family Court, Karaikal.

8. Therefore, the Registry is also directed to tag the C.M.A.SR.No.31589 of 2024 (after numbering) along with C.M.A.No.52 of 2024 and list both the CMAs as per chronological order. There shall be no order as to costs.

[M.S., J] [K.G.T., J]
21.03.2024

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M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

mk



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