



C.R.P. No. 2280 of 2020

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 01.08.2024

CORAM:

**THE HONOURABLE MR.JUSTICE BATTU DEVANAND**

C.R.P. No. 2280 of 2020

and

C.M.P. No.14284 of 2020

T.Karthikraja

... Petitioner

Vs.

Dhatchayani

... Respondent

**Prayer:** Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order made in I.A.No.192 of 2019 in F.C.O.P.No.255/2017, dated 06.02.2020 on the file of the learned Family Court, Vellore, Vellore District and allow the above Civil Revision Petition.

For Petitioner : Mr.B.Kannadasan

For Respondent : Mr.P.Kannan



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## **ORDER**

This Civil Revision Petition has been filed against the order dated 06.02.2020 in I.A.No.192 of 2019 in F.C.O.P.No.255/2017, on the file of the learned Family Court, Vellore, Vellore District.

2. Heard learned counsel for the petitioner and learned counsel for the respondent and perused the records.

3. The brief facts of the case reads as follows:

The petitioner and respondent are husband and wife respectively. The petitioner herein had filed a case seeking for dissolution of marriage and the same was numbered as OS.No.38 of 2012 on the file of the Sub Judge, Vellore. Later on in the year 2017, the said suit was transferred to the Family Court, Vellore and it was numbered as F.C.O.P.No.255 of 2017. Due to non appearance of the respondent on 28.12.2017, she was set exparte and a decree was passed on 09.02.2018. To set aside the exparte order, the



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respondent filed a petition before the Family Court, Vellore and there is a delay of 473 days in filing petition to set aside the exparte order. Therefore, the petitioner filed I.A.No.192 of 2019 to condone the delay of 473 days in filing petition to set aside exparte order. After hearing both sides, the said petition was allowed on condition that the respondent shall pay an amount of Rs.2,000/- as compensation to the petitioner. Aggrieved by the same, the petitioner filed the present Civil Revision Petition.

4. The learned counsel for the respondent/wife submits that after transferring OS.No.38 of 2012 from the Sub Court, Vellore to Family Court, Vellore, it was numbered as FCOP.No.255 of 2017, but the respondent was not served with any notice with respect to the case. The respondent could not appear before the Court due to her frequent ailment and also because of her financial constraints. It is further submitted that case papers got mixed with other case bundles and also the respondent falling ill frequently and hence, the petition to set aside the exparte order could not be filed on time. As such there is a delay of 473 days and it is an unexpected mistake, which is neither wilful nor wanton. The Family Court, Vellore rightly allowed the



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condone delay petition subject to payment of costs of Rs.2,000/- to the petitioner and as such, there is no irregularity in the said order and sought to dismiss the Civil Revision Petition.

5. On the other hand, learned counsel for the petitioner/husband submits that the respondent has not filed any medical certificate to prove that she was not feeling well to consider the condone delay of 473 days and the delay was not properly explained for each day. It is further submitted that after the judgment was passed on 09.02.2018, the petitioner married on 18.05.2018 and living with his wife and child as a family. Accordingly, he sought to set aside the order of the Family Court and sought to allow the Civil Revision Petition.

6. On behalf of the petitioner documents D1 and D2 were filed and no witnesses were examined. No documentary evidence was produced on behalf of the respondent and no witnesses were examined.



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7. The reasons stated by the respondent for non appearance before the Family Court, Vellore is that she did not know about the transfer of case to the Family Court. She also contends that she could not appear before the Court due to her ill-health and financial constraints and also her case papers got mixed with other case bundles. Though the Family Court is not inclined to accept the reasons stated by the respondent, considering the fact that the case is between husband and wife, considered to compensate for the delay and expenses that are caused to the petitioner and hence, it directed the respondent to pay a sum of Rs.2,000/- as compensation to the petitioner.

8. On perusal of the materials available on record, considering the facts and circumstances of the case and considering the difficulties put forth by the respondent for not appearing before the Court, which leads to pass exparte order on 09.02.2018 and the reasons stated by the Family Court while allowing the petition, in my considered view there is no infirmity or illegality in the order passed by the Family Court. As such interference of this Court is not required.



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9. Accordingly, the Civil Revision Petition is dismissed.

No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Neutral Citation : Yes / No

pvs

To

The Family Court, Vellore,  
Vellore District



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**BATTU DEVANAND, J.**

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