



C.R.P.[NPD].No.2601 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 29.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.[NPD].No.2601 of 2024

S.Bharathkumar

. . . Petitioner

Versus

M.K.Anupriya

. . . Respondent

PRAYER : Petition filed under Article 227 of Constitution of India allow this Civil Revision Petition and set aside the fair and decreetal order dated 07.6.2024 passed by the Family Court Judge at Vellore in I.A.No.02 of 2024 in FCOP.No.215 of 2017, restore the above FCOP.

For petitioner : Mr.R.Murali

Respondent : Mr.G.Mohanraj



C.R.P.[NPD].No.2601 of 2024

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ORDER

Challenge has been made against dismissal of the application filed to condone the delay of 1513 days in filing an application to restore the original petition which was dismissed for default on 03.09.2019.

2. The petitioner filed an Original Petition for divorce under section 13[1][ia] of Hindu Marriage Act. The said petition has been dismissed for default on 03.09.2019. Therefore, the petitioner filed an application to restore the petition with an application to condone the delay of 1513 days, wherein, it is the contention of the revision petitioner that since there was some consensus reached between husband and wife to file a petition for divorce with mutual consent, the said petition has been dismissed. Further the wife was also waiting for a Government job, he waited till her job is finalised. Thereafter, the wife has requested further time to file divorce petition, since she got only temporary job. Now as the wife has not come forward for filing divorce



C.R.P.[NPD].No.2601 of 2024

petition, there is no other go for the petitioner other than to file the present petition. The trial Court has dismissed the application on the ground that explanation given by the petitioner for the delay is not satisfactory. Challenging the same, the present Civil Revision Petition has been filed.

3. Heard both sides and perused entire materials available on record.

4. The reason assigned by the petitioner for condonation of the delay is that there was consensus reached between the parties to seek mutual divorce and the petitioner also waited till his wife got the job. In the meanwhile, as the respondent got only temporary appointment and she has not come forward to file a divorce petition with mutual consent, he filed an application to restore the original petition along with an application to condone the delay. Though each and every day delay has not been explained, the reason assigned, in view of this Court, is more probable in matrimonial issues, the allegations cannot be brushed aside. At any event, the parties are at logger heads and they are residing separately from the year 2016 as per the submissions of both sides.



C.R.P.[NPD].No.2601 of 2024

Therefore, some adjudication is required with regard to their status including alimony and maintenance etc. Therefore, the parties have to be given an opportunity to agitate their rights and their substantive right cannot be curtailed in the initial stage itself.

5. Accordingly, this Civil Revision Petition is allowed subject to the condition that the petitioner pay a sum of Rs.25,000/- to the respondent within a period of one week from the date of receipt of a copy of this Order. No costs.

29.11.2024

Index : Yes / No
Internet: Yes
Speaking/non speaking order
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To,

The Judge,
Family Court, Vellore. .



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C.R.P.[NPD].No.2601 of 2024

N. SATHISH KUMAR, J.

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C.R.P.[NPD].No.2601 of 2024

29.11.2024