



C.M.P.No.17213 of 2023

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in
C.M.A.SR.No.86544 of 2023
(Filing Number)

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

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

The petitioner / husband has preferred O.P.No.3938 of 2016 on the file of IV Additional Family Court, Chennai, seeking dissolution of marriage. Pending OP, the respondent / wife has preferred an application in I.A.No.2263 of 2017 in O.P.No.3938 of 2016 seeking for interim maintenance, in which, the learned V Additional Principal Judge, Chennai, who was holding full additional charge of IV Additional Family Court, has granted an interim maintenance vide order dated 19.12.2022 and the operative portion of the said order reads as follows:

'In the result, the petition is partly allowed. That the respondent is directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand Only) per month to the petitioner (wife) and further directed to pay a sum of Rs.40,000/- (Rupees Forty Thousand Only) including payment of Rs.20,000/- to the minor son already



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periodically paid by the respondent as per docket order of this Court and totally a sum of Rs.50,000/- towards interim maintenance from the date of the petition i.e., 23.01.2017. The above amount shall be paid before 5th day of every English Calender month. No costs.'

2. Assailing the impugned order, the petitioner / husband has preferred an appeal along with civil miscellaneous petition seeking for condonation of delay before this Court as there is a delay of about 107 days in filing the appeal. Section 19(3) of the Family Court Act, 1984, prescribes the period of limitation for filing an appeal against the judgment or order of a Family Court as 30 days from the date of judgment or order. However, if sufficient cause is shown, the delay in filing the appeal can be condoned under Section 5 of the Limitation Act, 1963. In this case, sufficient cause has been shown by the petitioner vide paragraph No.3 of the support affidavit and the same reads as follows:

'3. I submit that the order was passed by the Hon'ble IV Additional Family Court, Chennai in I.A.2263/2017 in O.P.No.3938/2016 on 19.12.2022. I submit that since I am currently residing in Hong Kong I could not file the copy application within the stipulated period and moreover I submit that I had been complying with the order until Gaurav attained majority.



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I submit that I had filed the copy application on 14.06.2023 and the order copies were made ready on 15.06.2023.'

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3. Learned counsel for petitioner would submit that the delay is neither willful nor wanton but for the reasons stated above.

4. Learned counsel for the respondent would contend that the petitioner shall continue to pay the maintenance amount as ordered by the Family Court.

5. The contention of the learned counsel for the respondent is left open for being raised at the time of hearing the stay application as well as the appeal.

6. Considering the explanation given by the petitioner and the facts and circumstances of the case, we are of the view that the prayer in the instant petition is liable to be acceded to.

7. Accordingly, Civil Miscellaneous Petition is ordered as prayed for. Delay condoned.

8. Registry is directed to number the appeal, if it is otherwise in order.

[M.S., J]

[K.G.T., J]

08.01.2024



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P.S.: UPLOAD FORTHWITH

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

mk

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