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C.R.P[NPD].No.5115 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM

THE HONOURABLE MR.JUSTICE N.**SATHISH KUMAR**

CRP[NPD].No.5115 of 2024

Gomathy

... Petitioner

Versus

Sannakesavan

... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the order dated 16.08.2024 in I.A.No.789 of 2022 in H.M.O.P.No.134 of 2010 on the file of the Family Sub-Court at Cuddalore.

For Petitioner : Mr.K.Thenrajan

ORDER

Challenge has been made against the dismissal of the application filed by the petitioner seeking to condone the delay of 4281 days in filing the application to set aside the *ex-parte* order in divorce proceedings.



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2. According to the petitioner, she came to know about the *ex-parte* decree of divorce only in December 2020, during an enquiry in the police station. The petitioner did not receive any summons from the Court. The signature of the petitioner found in the summons was a forged one. Further, the respondent herein threatened the petitioner that he will stop the financial support to her children if the petitioner files any petition against the *ex-parte* decree and compelled her to stay with him for the benefit of the children's future even after divorce. Believing his words, the petitioner did not take any steps to set aside the *ex-parte* decree and hence, the delay of 4281 days has occurred.

3. The said condone delay application was opposed by the respondent on the ground that the petitioner was set *ex-parte* on 21.12.2020 and the *ex-parte* decree was passed on 22.01.2011. Thereafter, the respondent got married to one Santhiya on 18.04.2014 and from the wedlock a child was born. Further, it is case of the respondent that he is regularly paying maintenance to the petitioner. The Court below considering the submission made by either parties, dismissed the condone delay application. Aggrieved over the same, the present petition has been



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filed.

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4. Heard the learned counsel appearing for the petitioner as well as the respondent and perused the materials available on records.

5. The contention of the petitioner that her signature found in the summons was forged is unacceptable for simple reason that though the petitioner took such a stand that the signature found in the summon is not made by her, to prove the said contention she has not even examined herself and rendered oral evidence in this regard. It is relevant to note that the petitioner was all along receiving maintenance. Her contention that only in the year 2020 she came to know about the *ex-parte* decree is unbelievable. The respondent was married to another woman in the year 2014 and from the wedlock a female child was born. It cannot be stated that the petitioner was not aware of the divorce proceedings when the petitioner was receiving maintenance amount from the respondent. Therefore, filing condone delay application with huge delay on the ground that she was not aware of the *ex-parte* decree is highly improbable and the explanation given by the petitioner for the delay is vague. Therefore, this Court does not find any merits in the present petition.



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6.In the result, this Civil Revision Petition is dismissed. No costs.

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Index: Yes/No
Internet: Yes/No
rst

To:

The Family Sub-Court,
Cuddalore.



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