



CRP No.95 OF 2025

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-02-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRP No.95 of 2025 and CMP Nos.809 and 811 of 2025

E.Venkatesan

Petitioner

Vs

S.Heeravathi

... Respondent

Civil Revision Petition filed under Section 115 of Civil Procedure Code against the order and decree dated 23.09.2024 in I.A.No.1 of 2024 in HMOP No.61 of 2021 on the file of Family Court, Cuddalore.

For Petitioner : Mr.R.Rajarajan

For Respondent : Mr.P.Jagadeesan

ORDER

Brief Facts:

The petitioner is the husband and the respondent is wife. The respondent/wife has filed H.M.O.P.No.61 of 2021 before Family Court, Cuddalore, seeking divorce on the ground of cruelty.

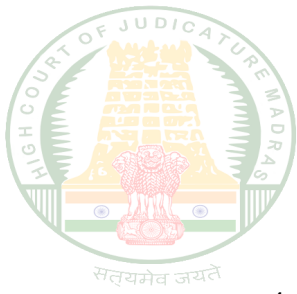


CRP No.95 OF 2025

WEB COPY

2. Notice was ordered to the petitioner/husband. The petitioner/husband received notice and the matter was posted to 03.04.2021 and thereafter, the case was referred to Mediation and Conciliation Centre, attached to the Family Court, Cuddalore. The petitioner and the respondent appeared before the Mediation Centre on 21.10.2021 and since mediation failed, the matter was posted before this Court on 16.11.2021. The petitioner/husband did not file counter, even though the matter was adjourned for the said purpose on various dates like 01.12.2021 and 16.12.2021 and he also did not appear before the Court and therefore, the Family Court had directed the respondent/wife to take private notice with paper publication.

3. Notice was duly served and paper publication was also duly effected. When the matter was posted on 24.02.2022, the Family Court had set the petitioner/husband ex parte and the matter was posted for ex parte evidence on 05.03.2022.



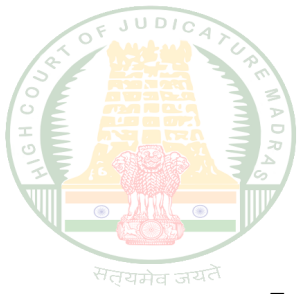
CRP No.95 OF 2025

WEB COPY

4. On 05.03.2022, the respondent/wife appeared and ex parte evidence was taken up and exhibits were marked and the matter was adjourned to 15.03.2022 for orders.

5. On 15.03.2022, the Family Court has allowed HMOP No.61 of 2021 filed for divorce. Subsequently, the petitioner/husband filed an application in I.A.No.01/2024 to condone the delay of 763 days in filing the application to set aside the exparte order dated 15.03.2022. The petitioner/husband contended that since he was affected with jaundice on 05.03.2022, he was unable to appear before the Court on that day and thereby, an exparte order was passed on 15.03.2022 and that there had been a delay of 763 days.

6. The respondent/wife filed a counter contending that the petitioner/husband filed the petition only to harass the respondent/wife and to prevent her from going abroad for higher studies and that no document has been filed to prove that he was affected by jaundice and that he had not explained the delay or filed any document to substantiate the delay of 763 days.



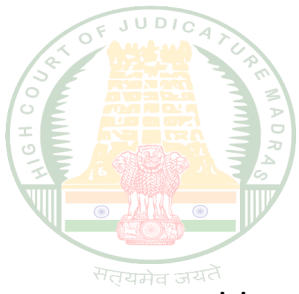
CRP No.95 OF 2025

WEB COPY

7. The Family Court, finding that the petitioner/husband has not shown sufficient cause for condoning the delay, dismissed I.A.No.01 of 2024 on 03.09.2024, against which, the present civil revision petition has been filed.

8. Mr.R.Rajarajan, learned counsel for the revision petitioner/husband would submit that the petitioner was affected with jaundice on 05.03.2022 and thereby, he was unable to appear before the Court and the ex parte order came to be passed on 15.03.2022. Learned counsel further submits that the matter was referred to Mediation and the parties have appeared before the Mediation on 26.04.2021 and thereafter, the Mediator advised both the petitioner and the respondent to bring their parents and the matter was adjourned. In the meanwhile, the respondent/wife informed the petitioner/husband that she had withdrawn HMOP No.61 of 2021 and believing the words of the respondent/wife, he did not appear before the Court. Further, on 15.03.2022 the petitioner was affected with jaundice and thereby he was unable to appear before the Court.

9. Per contra, Mr.P.Jagadeesan, learned counsel for the respondent/wife submits that after the case was posted on 16.11.2021 for filing of counter, the



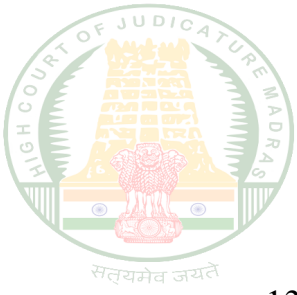
CRP No.95 OF 2025

petitioner/husband did not file counter and he also failed to appear before the Court and other than stating that he was suffering from jaundice on 05.03.2022 no other ground was raised by the petitioner/husband before the Family Court and the Family Court, rightly finding that no proof was filed to substantiate the same and further no sufficient cause was shown to condone the delay, had dismissed the application.

10. As per the direction of this Court, the wife has sent private notice and subsequently, paper publication was also effected and thereafter, the petitioner/husband was set exparte on 24.02.2022 and an ex parte order order came to be passed on 15.03.2022.

11. Heard both sides and perused the materials available on record.

12. The petitioner/husband has not shown any sufficient cause for the huge delay of 763 days in filing the petition to set aside the ex parte decree and also no documents were marked to show that he was affected with jaundice.



CRP No.95 OF 2025

WEB COPY

13. Considering the facts and circumstances of the case, this Court is of the opinion that the petitioner/husband has not shown sufficient cause for the delay and has also not properly explained the reason for the inordinate delay of 763 days. The trial Court, rightly finding that the petitioner/husband has failed to explain sufficient cause for the huge delay, has dismissed the application.

14. I do not find any infirmity or illegality in the order passed by the Family Court, Cuddalore in I.A.No.01 of 2024 in H.M.O.P.No.61 of 2021 dated 23.09.2024.

15. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24-02-2025

Index:yes/no
Website:yes/no
sr

To

The Family Court, Cuddalore



WEB COPY



CRP No.95 OF 2025

A.D.JAGADISH CHANDIRA,J.,

sr

CRP No.95 of 2025

24.02.2025