



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 10.10.2025

Order pronounced on : 17.10.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.4017 of 2025
& CMP.No.20850 of 2025

Bavani

... Petitioner

Vs.

1.S.S.Mythili
G.M.Palanivel (Died)
2.The General Manager,
Southern Railway,
Chennai – 600 003.
3.The Senior Divisional Personal Officer,
N.G.O Annexe, Southern Railway,
Chennai – 600 003.

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the fair and final order of the learned II Additional Principal Family Judge, Chennai in I.A.No.1 of 2024 in O.S.No.179 of 2008 dated 30.12.2024.

For Petitioner : Mrs.V.Manjuladevi

For Respondents : Mr.Jeremiah Gregory John



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ORDER

The 2nd defendant in O.S.No.179 of 2008, who claims to be the lawfully wedded wife of the deceased, G.M.Palanivel, aggrieved by the dismissal of an application to condone the delay of 4186 days in filing the application to set aside the ex-parte order dated 15.01.2021 in O.S.No.179 of 2008, is the revision petitioner.

2.I have heard Mrs.V.Manjuladevi, learned counsel for the petitioner and Mr.Jeremiah Gregor John, learned counsel for the 1st respondent.

3.Mr.V.Manjuladevi, learned counsel for the petitioner would submit that the petitioner was married to G.M.Palanivel and it was represented by the said G.M.Palanivel that he had lawfully divorced his earlier wife, namely the plaintiff in the suit, before contracting their marriage and subsequently, he also died and the suit was filed to declare the plaintiff as the lawfully wedded wife of G.M.Palanivel. The said suit was decreed on 15.11.2011 and the declaration as sought for by the plaintiff was granted, apart from the relief of permanent injunction to restrain the employer,



Southern Railway from disbursing any benefits to the revision petitioner.

The learned counsel for the petitioner would therefore state that the petitioner, being the lawfully wedded wife, should be given an opportunity to contest the suit, as, on the date of her contracting the marriage with G.M.Palanivel, there was a decree of divorce validly granted by a competent Court.

4.Per contra, Mr.Jeremiah Gregory John, learned counsel for the 1st respondent/plaintiff would state that the said G.M.Palanivel married the plaintiff on 05.02.2003. However, he had an illicit relationship with the revision petitioner and also filed O.P.No.3236 of 2007 for dissolution of the marriage with the plaintiff and an ex-parte order of divorce was granted on 02.01.2008. However, on the very next day, the plaintiff had filed I.A.No.38 of 2008 to set aside the ex-parte order and on 28.08.2011, the said ex-parte order granting divorce was also set aside and subsequently, the OP for dissolution of the marriage in O.P.No.3236 of 2007 also came to be dismissed for non-prosecution on 16.09.2011. The learned counsel for the 1st respondent would contend that even though the plaintiff's husband had



contracted a marriage on 15.04.2008, it was only pending the application to set aside the ex-parte order of divorce and therefore, the marriage was subject to the result of the setting aside application.

5.The learned counsel for the 1st respondent would in any event state that subsequently, the ex-parte order has been set aside and the OP itself has been dismissed. Therefore, the divorce granted ex-parte has no force in the eye of law and the petitioner cannot contend that she having married G.M.Palanivel, when there was an ex-parte order of divorce subsisting, is entitled to content the suit. He would further state that, at best, the petitioner is an illegitimate wife and she cannot have any claim as against the legitimacy of the marriage between G.M.Palanivel and the plaintiff. He would therefore pray for dismissal of the revision.

6.I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the order impugned in the revision.



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7.No doubt, the petitioner married G.M.Palanivel on 15.04.2008 and on the said date, the ex-parte order of divorce granted on 02.01.2008 was in force. However, at the same time, it should be noted that even on 03.01.2008, the plaintiff had filed an application in I.A.No.38 of 2008 to set aside the said ex-parte order of divorce and subsequently, on 28.08.2011, the said application was allowed and the ex-parte order of divorce was also set aside. Therefore, once the order granting dissolution of the marriage was set aside by the competent Court, it is not open to the revision petitioner to contend that she is the lawfully wedded wife of G.M.Palanivel.

8.Further, in any event, the petitioner has not made out sufficient cause for seeking condonation of the huge and inordinate delay of 4186 days. The trial Court has found that the petitioner has approached the Court very belatedly and has also not been successful in establishing sufficient cause. The conduct of the petitioner clearly points to the fact that the petitioner has acted carelessly and there has been total lack of diligence on her part. The rights, that have accrued to the plaintiff, post the decree passed in the suit, cannot be lightly disturbed.



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9.The Hon'ble Supreme Court has time and again held that unless sufficient cause is condition precedent for the court to even proceed to favourably consider the condonation of delay application and the Court cannot even look into the merits, when the petitioner has not been able to show just or sufficient cause in seeking condonation of delay.

10.In the present case, the petitioner has stated that she came to know about the ex-parte decree in the suit, only after the employer, the Southern Railway passed an order, incorporating the plaintiff's name in the service book of G.M.Palanivel, the 1st defendant in the suit, in view of the declaration that she is the lawfully wedded wife. However, the trial Court has taken note of the fact that the employer had sent an intimation letter even as early as in 2014 to the said G.M.Palanivel, informing him about the ex-parte decree.

11.It is the specific case of the petitioner that she was living only with G.M.Palanivel, right from the marriage on 15.04.2008. Therefore, the trial Court has found that the plea of lack of knowledge of the decree, as put



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forth by the revision petitioner, was totally unacceptable. I do not find that the order of the trial Court suffers from any perversity or illegality. The Family Court has rightly found that the petitioner has not assigned sufficient reasons for condonation of delay of 4186 days, warranting interference in revision.

12. In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

17.10.2025

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No
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To
The II Additional Principal Family Court, Chennai.

P.B. BALAJI, J.



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Pre-delivery order made in
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