



WEB COPY



CRP No.3048 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :21.07.2025

CORAM:

THE HON'BLE MR. JUSTICE P.B. BALAJI

C.R.P.No.3048 of 2025

J.Jenifer Flora navamani

... Petitioner

vs

M.Surendar

.. Respondent

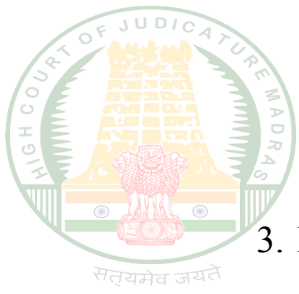
Petition filed under Section 115 of Civil Procedure Code against the fair and decretal order dated 28.03.2025 in I.A.No.1 of 2024 in O.P.No.5625 of 2023 on the file of Principal Family Court, Chennai.

For Petitioner : Mr.R.Subramanian
For Mr.S.Ramesh

ORDER

The revision is filed challenging the dismissal of the application filed under Section 5 of the Limitation Act refusing to condone the delay of 95 days.

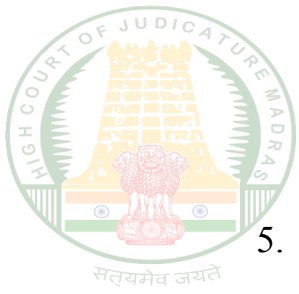
2. Heard the learned counsel for the petitioner.



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3. Learned counsel for the petitioner states that the address furnished in OP No.5625 of 2023 before the Principal Family Court, Chennai is not the address where the revision petitioner resides and that has occasioned the delay in seeking to set aside the decree granted to the respondent/husband. Learned counsel for the petitioner also invites my attention to the Aadhar card of the revision petitioner and contends that the correct address of the petitioner is only “Old No.11, New No.30, K.R.G.Nagar, Ganapathy Main Street, Coimabtoe North, Coimbatore” and not the address mentioned in O.P.No.5625 of 2023. Learned counsel would therefore pray for the revision petition being allowed and opportunity may be granted to the revision petitioner/wife to contest O.P.No.5625 of 2023.

4. Per contra, learned counsel for the respondent would state that absolutely no reason has been assigned in the affidavit filed in support of the application to condone the delay of 95 days and further, even in the affidavit which has been filed seeking to condone the delay in setting aside the exparte decree, the petitioner has given the very same address which is furnished in OPNo.5625 of 2023. Learned counsel would therefore submit that the order passed by the Family Court, dismissing the application does not warrant any interference.



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5. I have gone through the order of the Family Court, dismissing the application for condoning the delay on the ground that the notice sent to the revision petitioner was returned as refused and therefore, it is deemed that the petitioner had knowledge of the proceedings and the delay cannot be condoned.

6. Be that as it may, the respondent/husband has sought for dissolution of marriage under Section 10(1)(i) of Indian Divorce Act in OP No.5625 of 2023. Though the contention of the respondent/husband is that the petitioner/wife resides only in the address that has furnished in OP No.5625 of 2023, I am able to see the affidavit filed in support of the condone delay petition that the cause title alone reflects the address which is as mentioned in OP No.5625 of 2023. However, in the body of the affidavit, the address of the revision petitioner is only “Old No.11, New No.30, K.R.G.Nagar, Ganapathy Main Street, Coimabtoe North, Coimbatore”.

7. Once it is satisfactory shown that the address to which notice was attempted to be served on OP No.5625 of 2023 is not the correct address, the Court ought not to have been carried away by the fact that the said notice has been refused, when it is not possible to ascertain whether the refusal was at the instance of the revision petitioner or somebody else, since the petitioner is prima facie able to show that she was not residing in the said address.



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P.B.BALAJI.,J.

sr

8. I have also gone through the Aadhar card. It is certainly not the address at which the petitioner was attempted to be served and notice was refused. Moreover, in a proceeding for dissolution of marriage, a fair opportunity should be given to the parties to put forth their respective claims and no prejudice would be caused to the respondent/husband if the delay is condoned and the parties are relegated to a full fledged trial and canvas their respective contentions.

9. Therefore, I am inclined to set aside the fair and decreetal order passed in I.A.No.1 of 2024 in O.P No.5625 of 2023. Accordingly, it is set aside and the civil revision petition is allowed. No costs.

21.07.2025

Index: Yes/No

Website:yes/no

Speaking Order/Non-speaking Order

sr

To

The Principal Family Court, Chennai

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