



C.R.P.(MD)No.1008 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD].(MD)No.1008 of 2024

and

C.M.P.(MD)No.5472 of 2024

R.Chellamani

... Petitioner

Vs.

T.Ramanathan

... Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the Ex-order and Fair order made in the above I.A.No. 15/2019 in H.M.O.P.No.38/2018 dated 09.08.2019 on the file of the Sub-Court, Melur insofar as the petitioner is concerned.

For Petitioner : Mr.N.Ananda Kumar

For Respondent : Mr.S.A.Ajmal Khan

ORDER

This petition has been filed seeking to set aside the Ex-order and Fair order made in the above I.A.No.15/2019 in H.M.O.P.No.38/2018 dated



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09.08.2019 on the file of the Sub-Court, Melur insofar as the petitioner is concerned.

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2. The case of the petitioner is that the marriage between the petitioner and respondent was solemnized on 05.04.2001 and thereafter, due to the matrimonial dispute, the respondent/husband filed H.M.O.P.No.38 of 2018 before the Sub-Court, Melur for decree of divorce. In the said HMOP ex parte judgment was passed on 27.04.2018. Aggrieved against the ex-parte decree, the petitioner filed I.A.No.15 of 2018 along with condone delay application to condone the delay of 55 days in filing the set aside ex parte decree. The said application was dismissed by the learned Sub-Judge, Madurai on 09.08.2019. Challenging the same, the present Civil Revision Petition is filed.

3. The learned counsel appearing for the petitioner would submit that the respondent filed H.M.O.P.No.38 of 2018 for divorce and the petitioner/wife filed H.M.O.P.No.41 of 2021 before the Sub-Court, Melur and the same was also rejected for the reason already ex-parte divorce was granted. The petitioner has filed copy application in respect of the order dated 09.08.2019 passed in unnumbered I.A.No. 2018 in I.A.No.15 of 2018 seeking to set aside the above ex-parte judgment along with the condone delay petition in H.M.O.P.No.



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38 of 2018 and the same was misplaced by the Court staff and the order copy was not despatched to the petitioner only on 15.11.2022. The entire delay was occurred on the part of the Court Staff, but the trial Court without considering the same and without affording an opportunity to the petitioner to contest the said petition, mechanically dismissed the said application and prays for allowing the petition.

4. The learned counsel appearing for the respondent would submit that the each and every delay was not properly explained and the trial Court has rightly dismissed the application and there is no need to interfere with the said order and prays for dismissal of the petition.

5. It is seen from the records that the respondent/husband filed H.M.O.P.No.38 of 2018 for divorce and ex-parte divorce was granted, in which, the petitioner filed an application to set aside the ex-parte order along with condone delay application. The trial Court has dismissed the said application and the delay is only 55 days, dismissing the petition to condone the delay of 55 days is not sustainable one. If there is no proper explanation, even then the trial Court has to show the leniency in favour of the parties for adjudicating the issue on merits. Without doing so, the trial Court had confirmed the ex-parte decree



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by dismissing the condone delay petition. Accordingly, the Civil Revision Petition is allowed and the Ex-order and Fair Order dated 09.08.2019 in I.A.No. 15 of 2019 in H.M.O.P.No.38 of 2018 is set aside. The trial Court is directed to restore the H.M.O.P.No.38 of 2018 and to dispose of the HMOP after giving opportunity to the parties. No costs. Consequently, connected miscellaneous petition is closed.

07.07.2025

Internet:Yes/No

Index:Yes/No

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To

1.The Sub-Court, Melur

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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