

C.R.P.(MD)No.1771 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1771 of 2025

Yogarani

...Petitioner

Vs.

Dharmendran

...Respondent

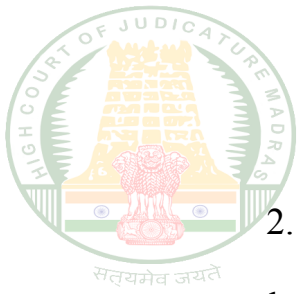
PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 26.03.2025 made in I.A.No.1 of 2024 in H.M.O.P.No.94 of 2022 on the file of the Sub Court, Paramakudi and allow the above Civil Revision Petition.

For Petitioner : Mr.D.Senthil

For Respondent : Mr.N.Jeyaram Sidharth

ORDER

This petition has been filed seeking orders to set aside the fair and decreetal order dated 26.03.2025 made in I.A.No.1 of 2024 in H.M.O.P.No.94 of 2022 on the file of the Sub Court, Paramakudi and allow the above Civil Revision Petition.



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2. The learned counsel for the petitioner submits that the petitioner is a respondent in a petition in H.M.O.P.No.94 of 2022 filed by the respondent herein before the learned Sub Judge, Paramakudi. The marriage between the petitioner and the respondent was solemnized in the year 2019 at Kumaran Padidurai Sri Murugan Kovil at Paramakudi and they were blessed with one male child. However, due to matrimonial disputes, the respondent filed for divorce, and the divorce was granted in favour of the respondent on 30.10.2022. The notice regarding the divorce proceedings was served to the petitioner, but the petitioner allegedly refused to receive the same. Consequently, an *ex parte* decree was passed. Subsequently, the respondent filed an interlocutory application in I.A. No. 1 of 2024, seeking to set aside the *ex parte* decree. However, the delay in filing the petition was 435 days.

3. The learned counsel for the petitioner further submits that the delay petition was dismissed by the trial court on the grounds that the respondent had remarried and that the petitioner's claim of not being duly served with notice was incorrect. The petitioner claimed that the notice was belatedly received. Furthermore, the learned counsel would argue that the endorsement on the registered post was marked as 'refused'. Since no notice was actually served to the petitioner and the petitioner denies having refused any notice, the Court



Amin also failed to serve the summons, making an endorsement stating that the petitioner had "gone to Madurai." These two endorsements formed the basis for the trial court's decision to dismiss the delay condonation petition, a decision which the petitioner contends is unsustainable.

4. The learned counsel for the respondent submits that, based on the refusal of the notice by the petitioner, the respondent proceeded with a second marriage. Moreover, the respondent's second wife is now pregnant. The respondent contends that restoring the HMOP would cause significant prejudice to the respondent, as it would disrupt the respondent's marital situation.

5. After considering the facts and circumstances of the case, this Court observes that the marriage between the petitioner and the respondent is not in dispute. The Court perused the notice issued by the lower Court on 22.09.2022, which contains two conflicting endorsements: one indicating that the petitioner was "not available in the house," and the other indicating that the petitioner "refused to receive" the notice. The conflicting endorsements raise questions about the authenticity and completeness of the notice procedure followed by the trial court. The failure to issue a fresh notice, based on the earlier return, coupled with the inconsistency of the endorsements, renders the trial court's decision to dismiss the delay condonation petition unsustainable.



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6. In light of the above observations, this Court is of the opinion that the trial court's dismissal of the delay condonation petition cannot stand. The conflict in the endorsements related to the notice, coupled with the failure to take appropriate remedial action, has resulted in an unjust denial of the petitioner's right to contest the proceedings.

7. Accordingly, the delay condonation petition in I.A.No.1 of 2024 dismissed by the trial court is hereby set aside, and H.M.O.P.No. 94 of 2022 is restored to the file for further proceedings.

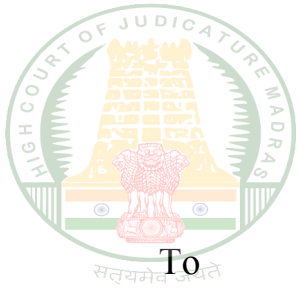
8. In the result, the Civil Revision Petition stands allowed. No costs.

21.07.2025

Internet: Yes/No

Index: Yes/No

TSG



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To

WEB COPY

- 1.The Sub Court, Paramakudi.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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