



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[NPD](MD)No.1817 of 2025

and

C.M.P.(MD).No.9964 of 2025

M.A.Malaikannan

...Petitioner

Vs.

Ponnurakku @ Tamil Selvi

...Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of CPC to set aside the impugned fair and decreetal order dated 28.02.2025 made in I.A.No.1 of 2023 in H.M.O.P.No.26 of 1994 on the file of the Family Court, Sivagangai (previously O.P.No.26 of 1994 Sub Court) set aside the same and allow this Civil Revision Petition.

For Petitioner : Mr.S.Srinivasa Raghavan

For Respondent : Mr.M.Mithun



ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 28.02.2025 made in I.A.No.1 of 2023 in H.M.O.P.No.26 of 1994 on the file of the Family Court, Sivagangai (originally O.P.No.26 of 1994 on the file of the Sub Court, Sivagangai).

2. The petitioner herein filed a petition in H.M.O.P.No.26 of 1994 before the Family Court, Sivagangai, (originally O.P.No.26 of 1994 on the file of the Sub Court, Sivagangai) seeking dissolution of marriage against the respondent. After a full-fledged trial, the Sub Court allowed the petition and granted a decree of divorce on 04.09.1995. Subsequently, the respondent filed a restoration petition in I.A.No.1 of 2023, seeking condonation of delay of 28 years and 11 months to file a petition to set aside the ex parte decree passed in H.M.O.P.No.26 of 1994 under Section 5 of the Limitation Act. The said petition was allowed by the trial Court on 28.02.2025. Challenging the said order, the present Civil Revision Petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the trial Court ought to have properly appreciated the reasons adduced by the petitioner for condoning the delay of 28 years and 11 months, and ought to have held, upon considering the pleadings and evidence on record, that no sufficient cause was made out for condoning such a huge and inordinate delay in filing the



application. He further contended that the appropriate remedy would have been to file an appeal or a separate suit, and the current approach is not maintainable.

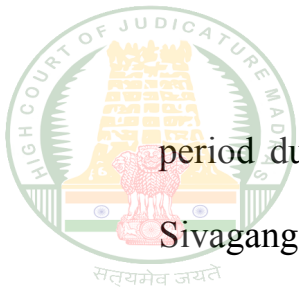
4. The learned counsel appearing for the respondent, on instructions, submitted that the respondent may be permitted to withdraw the application and be given liberty to file a separate suit or appeal before the appropriate forum, and the period during which the matter was pending before the Trial Court and this Court may be excluded for the purpose of limitation.

5. The learned counsel appearing for the petitioner has no serious objection to the above course.

6. In view of the above submissions, and without expressing any opinion on the merits of the matter, this Court is inclined to dispose of the Civil Revision Petition on the following terms:

(i) The order dated 28.02.2025 passed in I.A.No.1 of 2023 in H.M.O.P.No.26 of 1994 by the Family Court, Sivagangai is hereby set aside.

(ii) The respondent is at liberty to prefer an appeal or file a fresh suit before the appropriate jurisdictional Court in the manner known to law. The



period during which I.A.No.1 of 2023 was pending before the Family Court, Sivagangai, and the period of pendency of the present Civil Revision Petition before this Court, shall be excluded for the purpose of limitation, if any such proceedings are initiated by the respondent.

7. The Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

23.07.2025

Internet: Yes/No

Index: Yes/No

TSG

To

- 1.The Family Court, Sivagangai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(NPD).(MD)No.1817 of 2



M.DHANDAPANI, J.

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C.R.P.(NPD).(MD)No.1817 of 2025

23.07.2025