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CRP No. 1042 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-03-2026

CORAM

THE HON'BLE MRS.JUSTICE N. MALA

CRP No. 1042 of 2026

M. Anupriya
W/o.V.Sivasankaran,
D/o.P.Mani,
At No.33 Gomathi Nagar,
Opposite to TCL Company,
Polivakkam,
Tiruvallur.

..Petitioner(s)

Vs

Dr.V. Sivasankaran
S/o.R.Vasudevan,
No.94 Chinnamman Koil Street,
Avadi,
Chennai 600 054.

..Respondent(s)

Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to set aside the impugned order of the Trial Court in I.A.No.1 of 2023, in filing the restoration petition in H.M.O.P.No.567 of 2018, so as to enable the petitioner to prosecute the matter on merits in accordance with law.

For Petitioner(s):

Mr.Velmurugan. T



ORDER

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This Civil Revision Petition is filed against the order dated 02.02.2024, passed in I.A.No.1 of 2023 in H.M.O.P.No.567 of 2018, dismissing the petitioners application under Section 5 of the Limitation Act, for condonation of delay of 361 days, in filing the application to set aside the *ex-parte* decree dated 07.12.2021.

2. The petitioner is the wife of the respondent. Two H.M.O.P's were filed, one by the petitioner/wife in H.M.O.P.No.338 of 2020 for restitution of conjugal rights and other filed by the respondent/husband in H.M.O.P.No.567 of 2018, for dissolution of marriage on the ground of nullity and void-ness.

3. The petitioner was set *ex-parte* in the H.M.O.P.No.567 of 2018 on 07.12.2021, and an *ex-parte* decree was passed, declaring the marriage solemnised between the petitioner and the respondent on 25.02.2018, as null and void. The petitioner thereafter filed an application to set aside the *ex-parte* decree dated 07.12.2021, along with an application under Section 5 of the Limitation Act, to condone the delay of 361 days in filing the set aside application. The Trial Court on consideration of the entire materials on record, dismissed the application. Therefore, the petitioner filed the above Civil



Revision Petition.

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4. The petitioner in her affidavit in support of the petition for condoning the delay of 361 days, stated that due to covid-19 pandemic, she was not able to attend the Trial Court and that she misplaced her advocate contact details. The petitioner further stated that she recently found her counsels contact number and after contacting him, came to know that P.W1 cross was closed and due to her non-appearance, an *ex-parte* decree was passed against her.

5. The respondent filed a counter in the I.A. stating *inter alia* that the averment of the petitioner in her affidavit that because of covid-19 pandemic, she was not able to attend the Trial Court was not tenable, since during the said period, she was prosecuting the proceeding in the Domestic Violence case, and even beyond the lock down period, she was prosecuting the DVC case. The respondent denied the contention of the petitioner that she misplaced her advocates contact details, on the ground that the very same advocate was simultaneously prosecuting the Domestic Violence petition and therefore, the said statement was unbelievable and a blatant lie. The respondent further stated that the averments in the petition were very vague and the reasons for the delay were not judicially and sufficiently explained and therefore, the petition



deserved to be dismissed. The respondent also stated that the petitioner while contesting the petition for dissolution of marriage, failed to take any steps to restore the petition for restitution of conjugal rights filed by her, which was also dismissed for default. The respondent stated that the intention of the petitioner in prosecuting the petition for dissolution of marriage was to prosecute the petitioner under Section 498(a) of the Indian Penal Code, in the Domestic Violence case, since after expiry of 90 days from the date of the decree, he solemnised a second marriage. For all the reasons, the respondent prayed for dismissal of the petition.

6. The trial Court on an appreciation of entire materials on record, found that the petitioner had not sufficiently explained the delay. The trial Court observed that there was lack of bonafides on the part of the petitioner, since she failed to restore the H.M.O.P.No.338 of of 2020, filed by her, while seeking to restore the H.M.O.P.No.567 of 2018 filed by the respondent. The trial Court found that the reason assigned by the petitioner for not prosecuting H.M.O.P.No.567 of 2018, was untenable since she was at the time diligently prosecuting her DVC case in D.V.C.No.82 of 2022. The trial Court taking note of the fact that the respondent had entered into a second marriage and was blessed with a child out of the second marriage, deemed it fit to dismiss the



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7. The learned counsel appearing for the petitioner submitted that the trial Court failed to note that substantial part of the delay i.e. almost 200 days, was covered by the covid pandemic and therefore the Court erred in thinking that there was unexplained delay for the entire period. He further submitted that trial Court failed to liberally consider the petition for condonation of delay and that in the absence of gross negligence or malafides, the petition ought to have been allowed.

8. I heard the learned counsel for the petitioner and perused the materials placed on record.

9. This Court finds that all the reasons assigned by the petitioner in her affidavit in support of the condone delay application were considered by the trial Court and the trial Court has given justifiable and logical reasons for rejecting the same. The trial Court on the basis of the materials before it found that the petition lacked merits for two reasons. One, the petitioner while taking steps to set aside the *ex parte* decree in the respondent's H.M.O.P. in H.M.O.P.No.567 of 2019, did not take any steps to restore her H.M.O.P. in



H.M.O.P.No.338 of 2020, which was also dismissed for default. Secondly, the trial Court found that the justification of the petitioner that due to Covid pandemic she was not able to prosecute the H.M.O.P.No.567 of 2019, of the respondent, was not believable and lacked bonafides, since she was at the same time prosecuting diligently D.V.C.No.82 of 2022, filed by her through the same counsel. The trial Court in exercise of its discretion found that no interference was called for since the respondent, after the limitation period for filing appeal expired, remarried and was blessed with a child.

10. Undoubtedly, the petitioner has not taken any steps to restore H.M.O.P.No.338 of 2020, filed by her for restitution of conjugal rights, which was also dismissed for default, but has only chosen to file the restoration petition to restore H.M.O.P.No.567 of 2019, filed by the respondent, for dissolution of marriage. This Court from the affidavit filed in I.A, for condonation of delay finds that the reasons assigned for the delay are very vague and inadequate to condone the delay of 361 days. As rightly pointed out by the learned counsel for the petitioner, the length of delay is not relevant, however, the reasons are. Unless, the Court is satisfied with reasons for the delay, based merely on the concepts of liberal approach, justice oriented approach and substantial cause, the delay cannot be condoned.



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11. In view of the above discussions, this Court finds no infirmity or illegality in the trial Court order, warranting interference.

Accordingly, this Civil Revision Petition is dismissed. No costs.
Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To
The Subordinate Judge, Poonamallee.



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N.MALA J.

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