

Court No. - 1

Case :- FIRST APPEAL DEFECTIVE No. - 58 of 2023

Appellant :- Arti Singh

Respondent :- Ajay Basant Verma

Counsel for Appellant :- Himadri Goswami, Aseem Misra

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Om Prakash Shukla, J.

**(C.M. Application No.1 of 2023: Application for
Condonation of Delay)**

1. Heard learned counsel for the appellant. However, no one has put in appearance on behalf of the respondent.
2. There is delay of 129 days in filing the instant appeal. The appeal is accompanied with an application for condonation of delay supported by an affidavit.
3. Cause shown in the affidavit filed in support of application for condonation of delay is sufficient.
4. The application for condonation of delay is allowed and delay in filing the first appeal is hereby condoned.

(order on appeal)

5. The instant first appeal has been filed under Section 19(1) of Family Courts Act, 1984 challenging the judgment/order dated 01.03.2023 passed by Principal Judge, Family Court, Hardoi in Original Suit No.441 of 2021.
6. Learned counsel for the appellant has firstly argued that the judgment/order rendered by the Principal Judge, Family Court, Hardoi in Original Suit No.441 of 2021 is an *ex parte*

judgement and secondly, the Family Court at Hardoi did not have jurisdiction to entertain the suit in view of the provisions of Section 19 of the Hindu Marriage Act, 1955.

7. The grounds urged before this Court can be taken before the court concerned on an application being made by the appellant for setting aside the *ex parte* decree as well as raising the objections as to the jurisdiction of the Court concerned. A copy of the plaint has not been filed along with the present appeal. This is yet another reason for us not to be in a position to go into the question of jurisdiction.

8. We leave it open to the appellant for making an appropriate application for setting aside the *ex parte* decree as well as for raising the question of jurisdiction before the court concerned. In case any such application is filed, the competent court is hereby directed to go into the questions raised in the present appeal and pass necessary order expeditiously, preferably within a period of three months from the date of filing of the application.

9. It is made clear that both the parties shall be heard in the interest of justice.

10. The first appeal is, accordingly, **disposed of**.

(Om Prakash Shukla, J.) (Attai Rahman Masoodi, J.)

Order Date :- 11.10.2023
Shubhankar