

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 615 OF 2015

SHRI NITIN Y. SHENKE.

... Petitioner

Versus

MRS. NISHA NITIN SHENKE @ MISS
DALINI TULSIDAS MIRAJKAR.

... Respondent

Adv. L. Sawnat holding for Adv. Nigel Da Costa Frias for the
Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 29th April, 2016

P.C.:

On 15/10/2015 a notice for final disposal was issued. None appears for the respondent, though served. The petitioner had filed Matrimonial Petition No. 19/2010/B against the respondent before the learned Civil Judge Senior Division at Panaji, which was dismissed in default on 26/8/2014. The petitioner subsequently filed M.C.A. No.29/2013 for restoration of the petition in which there was a delay of 453 days. According to the petitioner, he was out of station at Delhi in connection with his official purpose and after returning, on inquiry, he found that the petition is dismissed by which time the application for restoration was already barred by limitation.

2. The learned Trial Court has refused to condone the delay on the ground that the application is vague and certificate by the employer was undated. It appears that the petitioner had made out a case in the

application for restoration that he was required to visit Delhi for purpose of representing the State at the Republic Day parade for fabricating the float and he was at Delhi from 24/12/12 to 2/2/2012 and returned on 3/2/2012. There was also a ground made out namely, it was on account of the lapse of the advocate not giving information about the dismissal of the petition, that the delay was caused.

3. Considering the circumstances, as mentioned in the application and further having regard to the fact that the respondent has not put in appearance, though served, the petition is allowed. The Matrimonial Petition No. 19/2010/B is restored to the file for disposal according to law. The petitioner to appear before the trial Court on 17/6/2016. at 10a.m.

C. V. BHADANG, J.

ap/-