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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

***CIVIL APPLICATION No.69 OF 2015
IN
FAMILY COURT APPEAL (ST) No.2809 OF 2015
WITH
CIVIL APPLICATION No. 70 OF 2015
IN***

***FAMILY COURT APPEAL (ST) No. 2809 OF 2015
IN
PETITION No. C-137 OF 2006***

Vishal Omprakash Behal

***....Applicant/Appellant
(Original Respondent)***

Vs.

Karuna V. Behal

***....Respondent
(Original Petitioner)***

Mr. Murtaza Nazmi i/b. Mr.Vinod K. Sharma for the Applicant /
Appellant

None for the Respondent

***CORAM : V. M. KANADE &
SMT. SWAPNA S. JOSHI, JJ***

DATE : AUGUST 23, 2016

P.C. :

1. This is an application being Civil Application No. 69 of 2015 for condonation of delay of five years and 362 days i.e. almost six years

from the date of the order passed by the Family Court, granting maintenance to the Respondent-wife for a sum of Rs.40,000/- per month and Rs. 20,000/- per month to the son. The Applicant did not appear before the Family Court in the said proceedings. Therefore, an ex-parte order came to be passed. Thereafter, execution proceedings were initiated by the Respondent -wife. The Applicant appeared in the execution proceedings and contested the same. During the execution proceedings, the Court had passed an order of attachment of the flat and only thereafter, the present appeal has been filed, challenging the said order.

2. It is submitted that the Applicant was wrongly advised not to contest the proceedings pending before the Family Court and therefore, he did not challenge the impugned order by filing an appeal.

3. It will not be possible to accept the submissions made by the learned counsel for the Applicant. The Applicant even during this period (pendency of the execution proceedings) has not paid any single penny to the Respondent -wife. Hence, no ground is made out for condonation of delay of almost six years in filing the Family Court Appeal. When this Court asked the learned counsel for the Applicant to deposit the

entire arrears, he expressed his inability to deposit the same in this Court. Hence, civil application is dismissed. Family Court Appeal does not survive and it is accordingly disposed of. Civil Application No. 70 of 2015 for stay of the impugned orders being Judgment and Decree dated 4th November, 2008 and Order dated 12.3.2010 passed in M.A. No. 36 of 2010 passed by the Family Court No.5 Bandra also does not survive and it is accordingly disposed of.

SMT. SWAPNA S. JOSHI, J.

V.M. KANADE, J.