

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FAMILY COURT APPEAL NO.49/2015
WITH C.A.O.NO.1071/2015 IN F.C.A.ST.NO.10467/2015.

Bhushan Jageshwar Sakhare, Nagpur.

-VERSUS-

Smt. Vandana Bhushan Sakhare

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

**CORAM : B.P. DHARMADHIKARI
& V.M.DESHPANDE, JJ.**

DATE : FEBRUARY 26, 2016.

Heard Shri P.A. Abhyankar, learned
Counsel for the appellant/applicant.

2. Civil Application No.1071/2015 has been filed for condoning the delay of 476 days in filing Appeal under Section 19 of the Family Courts Act, 1984 challenging the judgment and decree dated 18.01.2014 delivered in H.M.P. No. A-37/2012. In that judgment according to the applicant, there were some observations on the dissertation and the proceedings instituted by him was only on the ground

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of cruelty.

3. When the matter was decided on 18.01.2014, he obtained legal advise and learnt that in view of the dissertation which continued even thereafter, a substantive petition on that ground needed to be filed. Therefore, he proceeded to file H.M.P. No. A-299/2014. That petition has been dismissed on 10.04.2015 in view of the findings on dissertation contained in earlier judgment and decree dated 18.01.2014.

4. This Court has issued notice to respondent wife in both the matters. She has chosen not to appear. When the matter was listed before this Court on 11.02.2016, after noticing her absence we gave her one opportunity to appear and contest. Today again she is absent.

5. Learned Counsel for the husband points out that the judgment and decree dated 10.04.2015 in Petition No. A-299/2014 is challenged by way of filing Family Court Appeal No. 49/2015, which is filed within limitation. Accordingly we **Admit** that appeal for final hearing.

6. As already noted above, filing of appeal

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against earlier judgment and decree dated 18.01.2014 has become necessary only after the later judgment of Family Court dated 18.04.2015. Hence we condone the delay by allowing Civil Application No.1071/2015. Office to register the Appeal. Civil Application stands disposed of accordingly.

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F.C.A.St.No. 10467/2015.

Today we have condoned delay in filing this appeal.

2. Issue notice of appeal to the respondent, returnable on 08.06.2016. Notice to indicate that the Court may dispose of the appeal finally at the stage of admission itself, if it is otherwise convenient to the Court.

3. List F.C.A.No. 49/2015 on that date for final hearing.

JUDGE

JUDGE

Rgd.