

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

C.A.O. NO.168/2016 IN FAMILY COURT APPEAL ST. NO. 21631/2015
 (DOLLY DNYANESHWAR @ SANTOSH VISHWASRAO SANGLE **VERSUS** DNYANESHWAR @
 SANTOSH VISHWASRAO SANGLE)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri P.S. Patil, counsel for the applicant.

CORAM : SMT.VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : JULY 15, 2016.

By this civil application, the applicant seeks condonation of delay of 1624 days in filing the Family Court Appeal.

The applicant had filed a Hindu Marriage Petition for grant of decree of divorce in 2009. The said petition was dismissed by the judgment dated 11.02.2011. In stead of challenging the said judgment in Family Court Appeal (First Appeal), the applicant filed Writ Petition No.3107 of 2011, challenging the judgment dated 11.02.2011. The said writ petition was disposed of by an order dated 11.07.2011 with liberty to the applicant-petitioner to file a regular first appeal against the judgment dated 11.02.2011. The appeal was not filed by the applicant till October-November, 2015. Along with the appeal, an application was filed by the applicant for condonation of delay of 1624 days in filing the appeal.

We are not inclined to condone the inordinate delay in filing the appeal. The delay is not satisfactorily explained. The applicant was permitted by this Court on 11.07.2011 to file the appeal, when the writ petition was disposed of, as it was not tenable. No steps whatsoever were taken by the applicant for filing the appeal immediately, thereafter. It is only stated in the

application that the petitioner was suffering from Spondylitis and, therefore, was not able to move around. We do not appreciate the explanation tendered by the applicant in the application. Even if the applicant was suffering from spondylitis, she could have easily filed an appeal within a reasonable time from 11.07.2011. It is not the case of the applicant that the applicant was bedridden. If the delay was reasonable, the same could have been condoned but, it is inordinate. It is stated in the application that now the non-applicant is trying to call the applicant on the cellphone and this is vexing the applicant. If that be so, the applicant has other remedies. The applicant can as well make a complaint to the police station. This cannot be the ground for condoning the delay of 1624 days in filing the appeal.

In the circumstances of the case, since the delay is not properly explained, we refuse to condone the delay. The civil application stands rejected.

JUDGE

JUDGE

APTE

CERTIFICATE

I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order.

Uploaded by: Rohit D. Apte.

Uploaded on : 19.07.2016.