

(CAM 254 OF 2015)

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 254 OF 2015

IN

FAMILY COURT APPEAL (ST.) No. 14544 OF 2015

Sou. Neha Abhijit Mangudkar	...Applicant/Appellant
Vs.	
Mr. Abhijit Bharat Mangudkar	...Respondent

Mr. Shrishailay S. Deshmukh for the Applicant/Appellant

Mr. Dhananjay Patil for Respondent.

**CORAM : V.M. KANADE &
P.R. BORA, JJ**

DATE : FEBRUARY 06, 2017

P.C. :

1. Heard the learned counsel appearing on behalf of the Applicant and the learned counsel for the Respondent.

2. The application is filed for condonation of delay. There is a delay of 20 days in filing the Family Court Appeal, which is filed against the order passed by the Family Court. The Applicant has

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stated in her civil application that it took time for her to send the papers to her advocate and, therefore, the delay was caused in filing the FCA.

3. On the other hand, a detailed affidavit in reply has been filed on behalf of the Respondent. Firstly, it is submitted that the valuable right has accrued in favour of the Respondent after the period of limitation is over. Secondly, it is submitted that there is an unexplained delay of 22 days and not 20 days. Thirdly, it is submitted that so far as the averment regarding the relatives of the Applicant were trying for amicable settlement of the present matrimonial matter is concerned, the said averment is false and no settlement talks have been taken place. Several other grounds have been taken in the reply. It is also pointed out that the Petitioner had remained absent on number of days before the Family Court and lastly, it is submitted that the Applicant is harassing the Respondent by filing civil applications and the petition for divorce filed by the Respondent before the Family Court is now at the last stage. It is submitted that on all these grounds, the civil application filed for condonation of delay may not be allowed.

4. It is a settled position in law that if a plausible explanation is given by the Applicant, who is exercising his/her statutory right of appeal, then this Court shall exercise its discretionary power and condone the delay caused in filing the appeal. In the present case, there is a only delay of 20 days and the Applicant has a right to be heard on merits. Ultimately, while hearing the Applicant and the Respondent, this Court may consider the various submissions made by the learned counsel appearing on behalf of the Respondent. So far

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as the delay is concerned, we are inclined to condone the delay of 20 days. Hence, civil application filed for condonation of delay is allowed and disposed of in terms of prayer clause (a).

5. Place the Family Court Appeal on the admission board on 20.2.2017

[P.R. BORA, J.]

[V.M. KANADE, J.]