

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 136 OF 2017
(CONDONATION OF DELAY)

IN

FAMILY COURT APPEAL (ST) NO. 473 OF 2017

IN

FAMILY COURT PETITION NO. A-22 OF 2014

Mr. Amarjeet Tukaram KadamApplicant

V/s.

Mrs. Savita Amarjeet KadamRespondent

* * * * *

Mrs. Vrushali L. Maindad, Advocate for the applicant.

Ms. Sanchita Thakur i/by. Anand S. Kulkarni, Advocate
for the respondent.

CORAM :-

R.M.SAVANT, &

SANDEEP K. SHINDE, JJ.

DATE :-

11TH JANUARY, 2018.

P.C. :-

1. The above Civil Application has been filed seeking condonation of delay of 140 days. Further, having regard to the date on which the impugned

judgment and order was rendered and also having regard to the date on which the application for certified copy was made and certified copy was made available, there is infact a delay of six months and five days in filing the above Family Court Appeal. The applicant i.e. the original petitioner in the Marriage Petition No.A-24 of 2014 has sought to justify the delay by the reasons mentioned in the above Civil Application. The sum and substance of the reasons was that the mother of the applicant was unwell on account of which he had to look after her and therefore the delay in filing the above Family Court Appeal has occasioned.

2. On behalf of the respondent, wife an Affidavit-in-reply has been filed. In the said reply, the extent of the delay, as also, the reasons mentioned in the Civil Application for the same are questioned. It is the case of the respondent as set out in the Affidavit that the delay in filing the above Family Court Appeal is not properly explained. We have heard the Learned Counsel for the

parties who sought to reiterate the case of their respective clients as urged in the Civil Application, as well as, the Affidavit-in-Reply. After hearing the Learned counsel for the parties, we are of the view that since the reasons mentioned in the Civil Application can be said to be the plausible reasons for the delay having occasioned in filing the above Family Court Appeal and as also having regard to the fact that the above Family Court Appeal is in the nature of a First Appeal, we deem it appropriate to exercise discretion in favour of the appellant/applicant so as to give an opportunity to the applicant/appellant to prosecute the above Family Court Appeal on merits rather than non-suiting him on the ground of technicalities. However, for the delay caused in filing the above Family Court Appeal, we deem it appropriate to put the applicant to terms. The applicant, therefore to pay costs of Rs.5,000/- to the respondent, wife within four weeks from today. The Civil Application is accordingly allowed and made absolute in terms of prayer clause (a). The Family

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CA-136-2017 (SR.5)
Thursday, 11.1.2018

Court Appeal to be placed for admission after 4 weeks i.e. on 9th February, 2018 prior to which the costs would have to be paid to the respondent, wife. The Civil Application is disposed of.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)