

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.159 OF 2016
IN
FAMILY COURT APPEAL (STAMP) NO.13176 OF 2016

Krishnakant Mulshankar Vyas.] ... Applicant

In the matter between :

Krishnakant Mulshankar Vyas.] ... Appellant

Versus

Dolly Shaw now known as]
Reena Krishnakant Vyas.] ... Respondent

Mr. Dhiraj Gole i/b Mr. Madhav J. Jamdar for Applicant / Appellant.
Ms. Jyoti Bajpayee for Respondent.

CORAM :- K. K. TATED &
SARANG V. KOTWAL, JJ.
DATE :- 24 JANUARY, 2018

P. C. :-

1. Heard the learned Counsel for the Applicant / Appellant.
2. This Civil Application is preferred by the Applicant – husband for condonation of delay of 69 days in filing the First Appeal challenging the Judgment and Decree dated 03/11/2015 passed by

the learned Judge, Family Court No.3, Bandra, Mumbai, in Petition No.B-28 of 2001.

3. Mr. Dhiraj Gole, learned Counsel for the Applicant, submits that the Applicant is a senior citizen. In the month of November 2015, the Applicant was not keeping well. Therefore, he was taking treatment in Bombay Hospital. To that effect, he has placed on record papers issued by the Bombay Hospital at Exh.1 and Exh.2 of the Civil Application. Mr. Gole submits that in the interest of justice, this Court be pleased to condone the delay in filing the Family Court Appeal. He submits that the Applicant has good chance of success in the present First Appeal.

4. Ms. Jyoti Bajpayee, learned Counsel for the Respondent – wife, vehemently opposed the present Civil Application. She filed Affidavit-in-reply dated 20/01/2018. The same is taken on record. She submits that the Applicant is taking advantage of his age wherever possible for his benefit. On the contrary, the Applicant is regularly attending the various matters in the Courts between the parties above as well as the other matters. The Applicant is also attending his business activities regularly. Therefore, there is no question of allowing the present Civil Application. She further submitted that even the Applicant has not shown substantial cause for condonation of inordinate delay of 69 days. Hence, the Civil Application be dismissed with costs.

5. We have heard both the sides.

6. Considering the submissions made by Mr. Gole, the Applicant is a senior citizen and considering the papers at Exh.1 and Exh.2, we are of the opinion that the Applicant has made out case for allowing this Civil Application. But at the same time, has to pay costs of Rs.2,500/- to the Respondent. Hence the following order :

ORDER

- (i) Delay in filing the First Appeal is condoned on payment of costs of Rs.2,500/-.
- (ii) The Applicant shall pay the costs either to the Respondent or her Advocate or shall deposit the same in the Registry of the Court within three weeks from today, failing which the Civil Application shall stand dismissed without further reference to this Court.
- (iii) If the costs is deposited in the Registry within the stipulated time as stated hereinabove, the Respondent is entitled to withdraw the same without furnishing any security.
- (iv) Civil Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

(K. K. TATED, J.)