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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ MAT.APP.(F.C.) 215/2018
SAKSHI KUMARI

..... Appellant

versus

ABHISHEK KUMAR

..... Respondent

+ MAT.APP.(F.C.) 216/2018
SAKSHI KUMARI

..... Appellant

versus

ABHISHEK KUMAR

..... Respondent

Present: Mr.Avinash Nandan Sharma, Adv. for the appellant with appellant
in person.

Mr.Shesh Datt Sharma, Advocate for the respondent with
respondent in person.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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10.09.2018

C.M.34309/2018 (delay) in MAT.APP.(F.C.) 215/2018

C.M.34435/2018 (delay) in MAT.APP.(F.C.) 216/2018

1. Both these applications have been filed by the appellant/applicant for condonation of delay in filing the appeals.
2. Counsel for the appellant submits that the appellant is residing at District Purnia, Bihar and is bringing up her 6 ½ years old child without any support from the respondent. It is further submitted that in these circumstances, the appellant could not effectively contest the matter before the Family Court and could not file the appeal within the prescribed period.
3. Counsel for the respondent submits that sufficient opportunities were granted to the appellant to file the written statement and reply, however,

the appellant has not been pursuing the matters diligently.

4. We have heard learned counsels for the parties.
5. For the reasons stated and explained orally that the appellant is residing at Line Bazar, Jhanda Chowk, P.S. K. Hat (Sahayak), P.O. Jhanda Chowk, District Purnia, Bihar and is also bringing up her minor son, delay in filing the appeals is condoned.
6. Both the applications stand disposed of.

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7. Both these appeals arise out of a common order dated 14.05.2018, by which, the appellant herein has been proceeded ex-parte. The respondent/husband has filed a petition for grant of divorce being HMA no.322/2017 under Section 13(1)(i) & (ia) of the Hindu Marriage Act and a petition with regard to custody of his minor son under Section 25 of the Guardian and Wards Act, 1890 before the Family Court, which are pending. The Family Court had rejected the request of counsel for the appellant/respondent before the Family Court for further time, to file the written statement and reply and to pay costs. The Family Court noticed that the respondent i.e. appellant herein was not present. The counsel for the appellant submits that the order of the Family Court is harsh and would have far reaching consequence on the rights of the appellant and her minor son. It is submitted that the marriage between the parties was solemnised at Purnia, Bihar in the year 2009. It is submitted that the appellant is a victim of cruelty and harassment and she was abandoned by her husband. All her articles have not been returned. Counsel submits that post the separation, the wife is totally dependent on her father and is residing with him at Purnia, Bihar.
8. We have heard learned counsel for the parties. In both the matters, since

the appellant did not file her written statement and reply, she was proceeded ex-parte. Subsequently, upon an application filed, another opportunity was granted to the appellant to file written statement subject to payment of cost. The appellant, however, did not comply with the order and prayed yet another opportunity to file the written statement and reply, which was declined. Although we do not find any fault in the order dated 14.05.2018 so passed by the Family Court, however, keeping in view the family circumstances as explained, the fact that she is residing at Line Bazar, Jhanda Chowk, P.S. K. Hat (Sahayak), P.O. Jhanda Chowk, District Purnia, Bihar, is totally dependent upon her father for support and she is bringing up her 6 ½ years old son. To meet the end of justice, we set aside the order dated 14.05.2018. Let the written statement and reply in the petition under Guardianship Act be filed within two weeks from today. The Family Court will fix a schedule for completion of pleadings.

9. With the above directions, both the appeals stand disposed of.

C.M.34310/2018 (stay) in MAT.APP.(F.C.) 215/2018

C.M.34436/2018 (stay) in MAT.APP.(F.C.) 216/2018

10. In view of the order passed in the appeals, both these applications stand disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

**SEPTEMBER 10, 2018/rb/
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