

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**Civil Application NO. 158 OF 2019**  
**IN**  
**Civil Application No.55 of 2018**  
**IN**  
**Rejected Case NO. 1702 OF 2018**  
**[Family Court Appeal (Stamp) No.27549/2017]**

|                                       |                |
|---------------------------------------|----------------|
| Shri.Mohansingh Shankarsingh Pardeshi | ...Applicant   |
| IN THE MATTER BETWEEN                 |                |
| Mohansingh Shankarsingh Pardeshi      | ..Appellant.   |
| <i>Versus</i>                         |                |
| Sau.Vanita Mohansingh Pardeshi        |                |
| And Ors.                              | ...Respondents |

....  
Ms. Sharon Patole, Advocate for the Applicant.  
....

**CORAM : K.K. TATED &**  
**SARANG V. KOTWAL, JJ.**  
**DATE : 22<sup>nd</sup> NOVEMBER, 2019**

**PC.**

1. Heard learned Counsel Ms. Sharon Patole for the applicant.
2. By this Civil Application, the applicant is seeking restoration of the Family Court Appeal (Stamp) No.27549/2017 and Civil Application No.55/2018, which stand dismissed in view of conditional orders passed by the learned Registrar (Judicial-II).
3. Learned Counsel for the applicant submits that being aggrieved by the judgment and decree dated 9.5.2017 passed by the learned Family Court, Nashik in Petition No.A.294/2013, the applicant preferred present Family Court Appeal. She submits that as there was delay in filing the Family Court Appeal, the applicant preferred Civil Application No.55/2018 for condonation of 19 days' delay.

4. Learned Counsel for the applicant submits that Civil Application No.55/2018 was on board before this Court on 1.3.2018. At that time, this Court granted Rule and made it returnable after six weeks. She submits that the matter appeared before the learned Registrar (Judicial-II) on 26.4.2018 for removal of office objections i.e. to supply copies of the Civil Application for service on respondent Nos.1 to 3. She submits that inadvertently it remained on their part to comply with the order dated 26.4.2018 passed by the learned Registrar (Judicial-II) and hence Civil Application No.55/2018 stood dismissed.

5. Learned Counsel for the applicant further submits that even Family Court Appeal (Stamp) No.27549/2017 appeared before the learned Registrar (Judicial-II) on 11.1.2018. On that date, the learned Registrar passed following order :

“4 weeks time is granted for removing office objections, failing which registration of Family Court Appeal Stamp shall stand refused without further reference to the Court.”

6. Learned Counsel for the applicant submits that it remained on the part of the applicant to remove all office objections even in Family Court Appeal. She submits that there is delay in filing present Civil Application. She submits that in the interest of justice, this Court be pleased to condone the delay in filing Civil Application and set aside the orders passed by the learned Registrar (Judicial-II) and restore Civil Application as well as Family Court Appeal on file for hearing on its own merits. She submits that if Civil Application is not allowed, irreparable loss and injury will cause to him. She submits that the applicant has good chance of success in the present proceedings. She further submits that the applicant undertakes to remove all office objections in Civil Application as well as Family Court Appeal within the stipulated time as may be directed

by this Court.

7. Considering the submissions made by learned Counsel for the applicant, averments made in the Civil Application and the orders passed by the learned Registrar, we are satisfied that the applicant has made out a case for allowing this Civil Application, but, at the same time the applicant has to pay costs of Rs.5,000/-. Hence, the following order :

- (a) Orders dated 11.1.2018 and 26.4.2018 passed by the learned Registrar (Judicial-II) are set aside.
- (b) Civil Application No.55/2018 and Family Court Appeal (Stamp) No.27549/2017 are restored on file for hearing on its own merits.
- (c) The applicant to remove all office objections in Civil Application No.55/2018 and Family Court Appeal (Stamp) No.27549/2017 on or before 13.12.2019, failing which Civil Application shall stand dismissed without referring back to the Court.
- (d) The applicant to pay costs of Rs.5,000/-.
- (e) Costs be deposited in Kirtikar Law Library, High Court, Main Building, Mumbai on or before 13.12.2019 and place on record the receipt to that effect, failing which Civil Application shall stand dismissed without referring back to court.
- (f) Civil Application is disposed of accordingly.

**(SARANG V. KOTWAL, J.)**

**(K.K. TATED, J.)**