

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**CAO NO. 605/2018 IN FAMILY COURT APPEAL ST. NO. 210 OF 2018**

(Mrs. Bhagyashri w/o Parmeshwar Mahato vs. Parmeshwar s/o Dharam Mahato)

---

Office Notes, Office Memoranda of Coram,  
appearances, Court's orders or directions  
and Registrar's Orders.

Court's or Judge's orders.

---

**CORAM : SUNIL B. SHUKRE &  
PUSHPA V. GANEDIWALA, JJ.  
APRIL 09, 2019.**

Heard Shri S.D. Kalyani, learned counsel for the applicant – appellant and Shri M.S. Gupta, learned counsel for the respondent.

This application has been opposed by the learned counsel for the respondent. He points out that in paragraph 3 of the application, delay of 59 days is mentioned but in paragraph 5 and in prayer clause, delay of 70 days has been mentioned.

The learned counsel for the applicant submits that inadvertently, the figure of 59 appearing in paragraph 3, remained as it is, although it was to be corrected to 70 days.

We would accept the explanation, as it does not appeal to us that such a mistake would be committed intentionally.

The learned counsel for the respondent submits that no documentary proof has been filed on record to explain the delay, which has been attributed to frequently falling sick of son of the applicant.

We are of the view that in a matrimonial dispute

where the relations between the husband and wife are getting strained, it becomes the attitude of parties to oppose case of each other just on any ground, even if it affects the situation and well being of their children.

Here is the case in which wife is claiming that her son frequently falls ill and the husband, who is the father of the son, questions such a claim. Questioning such a claim may be acceptable, provided the father has made some inquiries to verify the genuineness of such a claim and that would necessarily mean an inquiry of well being of his own son and the son involved in this case is about five years of age. But, it appears that the respondent – father has not made any inquiry in this regard and the reason given by the learned counsel for the respondent is that the relationships between the respondent and the applicant are strained. Such an explanation cannot be accepted. If father has not made any inquiry about the health condition of his son, he cannot confidently deny the claim made by his wife as regards the illness of his son.

In this view of the matter, we are of the opinion that the delay, which occurred in the present case, is sufficiently explained by the applicant and this application deserves to be allowed.

Civil Application is allowed. Delay is condoned. Appeal be registered.

**FAMILY COURT APPEAL NO. OF 2019**

Heard.

**Admit.**

Final hearing is expedited. Private paper book be  
filed.

The Family Court shall keep it in mind that the  
Appeal has been admitted by this Court.

**JUDGE**

**JUDGE**

\*GS.