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Bharat
D. Pandit

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1698 OF 2020

Mrs. Sujata Uttam Khawale

.... Petitioner.

V/s

Mr. Uttam Dhondiba Khawale

..... Respondent.

Ms. Babita P. Pandey for the Petitioner.

Ms. Leena Patil for the Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: DECEMBER 04, 2020.

P.C.:-

1] The order impugned dated 14/11/2019 passed by the Joint Civil Judge, Senior Division, Pune below Exhibit-10 refuses the Petitioner to place on record Written Statement which was filed at the belated stage. Apart from above, since no application for condonation of delay was filed, the order impugned came to be passed.

2] Submissions are, the act of a lawyer shall not cause prejudice to the litigant as, though instructed, it is claimed that the lawyer while drafting the application for permission to place of record the Written

Statement has neither mentioned the cause for delay, nor sought permission for placing on record Written Statement with the prayer for condonation of delay. It is further claimed that though ignorance of law cannot be a ground, however, in matrimonial proceedings, the Court is required to consider status of the Petitioner and the fact that she is a custodian of four years old child.

3] Prayer is opposed by the learned Counsel for the Respondent, as according to her, statutory period as is fixed for filing Written Statement was over and no explanation is put forth for condonation of delay or no such prayer was made before the Court below.

4] Considered rival submissions.

5] Under the provisions of Family Courts Act, Family Court is given liberty to evolve its own procedure for expeditious disposal of proceedings which are pending before it.

6] In the aforesaid background, considering the fact that nature of dispute is matrimonial and the Petitioner is a custodian of minor child

of four years and she was not properly advised in the matter, the order impugned dated 14/11/2019 passed below Exhibit-10 is hereby quashed and set aside. Application-Exhibit-10 stands allowed subject to payment of costs of Rs 1000/- to the Respondent to be deposited in the Court below within a period of four weeks from today. Needless to clarify that the Petitioner is granted liberty to carry out appropriate corrections in the Written Statement and the corrected copy of the same be served on the Respondent in the Court below.

7] Petition stands allowed in the aforesaid terms.

(NITIN W. SAMBRE, J.)