

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**CM No. 7898-CII of 2020 in/and  
FAO No. 2789 of 2020 (O&M)  
Date of Decision: 21<sup>st</sup> August, 2020**

Lakhwinder Singh

....Appellant

**VERSUS**

Gurleen Kaur

....Respondent

**CORAM: JUSTICE S. MURALIDHAR  
JUSTICE AVNEESH JHINGAN**

Present: Mr. Amit Kumar Walia, Advocate for the Petitioner.

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**Dr. S. Muralidhar, J.**

**CM-7898-CII-2020**

1. This is an application seeking condonation of a delay of 560 days in filing the appeal against the judgment dated 26<sup>th</sup> July, 2018 passed by the Family Court, Barnala ('Family Court'), in Civil Suit No. 02/2018 filed by the Respondent/Minor Daughter of the present Appellant, *inter alia* for the recovery of maintenance under the Hindu Adoption and Maintenance Act, 1956.

2. It must be mentioned here that the aforesaid suit of the Respondent was decreed partly for recovery of maintenance at Rs. 3000/- per month from the date of filing of the suit i.e. 18<sup>th</sup> April, 2017 and to pay Rs. 5,00,000/- towards expenses of the Respondent's marriage by creating a charge over the suit property and for permanent injunction for restraining the present Appellant from alienating the 3/4<sup>th</sup> share of the suit property in any manner in favour of any person.

3. Learned counsel for the Appellant informs the Court, during the course of the arguments, that there was an *ex parte* decree of divorce passed against the Appellant, dissolving the marriage between the Appellant and the mother of the Respondent i.e. Smt. Amandeep Kaur and that he has chosen not to challenge the *ex parte* decree of divorce. However, in the present application it is stated that the Appellant has remained thereafter “under constant depression and was not in a sound state of mind to understand his good and bad and to contest the litigation”.

4. It appears that when the Appellant failed to honour the decree awarded in favour of his minor daughter by the impugned judgment, she was constrained to file an execution application in which the executing Court by an order dated 1<sup>st</sup> July, 2019 issued warrants against the present Appellant for recovery of the arrears of maintenance and the marriage expenditure in the sum of Rs. 5,88,960/-. The warrants were forwarded to the Collector, Sangrur for recovery of the warrant amount by the sale of agricultural land of the Appellant and the date of auction was also fixed by the Assistant Collector, Sangrur in terms of the said warrant, for 13<sup>th</sup> August, 2020 at 11.00 a.m.

5. It is stated in the application that the Appellant kept on approaching his former wife to settle the issue of custody of the Respondent and that since she had been promising reconciliation with the Appellant, he was unable to file the appeal against the impugned judgment.

6. It is stated that after his former wife “flatly refused to settle the matter with the Appellant”, on 5<sup>th</sup> August, 2020 he became aware of the date of

auction of his property as being fixed for 13<sup>th</sup> August, 2020. It is stated that thereafter, on 6<sup>th</sup> August, 2020, he engaged Counsel to file the present appeal.

7. In the application, it is stated that the Appellant “was always ready and willing to keep and maintain the minor daughter with him”.

8. When this application was first listed before this Court on 19<sup>th</sup> August, 2020, given the above background and keeping in view the fact that the Appellant was in arrears of nearly Rs. 6,00,000/- towards maintenance and marriage expenditure of his minor daughter, the Court enquired whether the Appellant, in order to demonstrate his *bona fides*, would be willing to deposit the entire arrears of maintenance and marriage expenditure in terms of the decree dated 26<sup>th</sup> May, 2018 of the Family Court.

9. Mr. Amit Kumar Walia, learned Counsel for the Appellant sought time for instructions and accordingly, the application was listed for today.

10. Today, when the matter was called out, Mr. Amit Kumar Walia, learned Counsel appearing for the Appellant has stated that the Appellant was not in a position to deposit the entire arrears of maintenance and the marriage expenditure in terms of the final decree but, in the alternative, was ready to give half of his share of the suit property, which is about half acre of the land.

11. The Court is unable to accept the above plea of the Appellant. Although, Mr. Walia, kept repeating that the Appellant was ‘ready and willing’, the fact of the matter is that for a year after the decree and till date the Appellant has

failed to pay any amount whatsoever to his minor daughter pursuant to the impugned judgment and decree in her favour. The plea of the Appellant totally lacks *bona fides*. The Court is also not satisfied with the explanation of the Appellant for the extraordinary delay of 560 days in filing the present appeal.

12. There is absolutely no merit in this application seeking condonation of an extraordinary delay of 560 days. It is dismissed as such.

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13. In view of the dismissal of the application seeking condonation of delay of 560 days in filing the present appeal, the appeal is also dismissed.

**(S. MURALIDHAR)  
JUDGE**

**(AVNEESH JHINGAN)  
JUDGE**

**21<sup>st</sup> August, 2020  
jk**

Whether speaking/reasoned    Yes/No

Whether reportable            Yes/No