

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

904 CIVIL APPLICATION NO.2277 OF 2020
IN/WITH FCA(ST.)/5887/2020

DAIVSHILA VIJAY PUJARI
VERSUS
VIJAY CHANDRAKANT PUJARI

...

Mr G. G. Suryawanshi, Advocate for applicant;
Mr Shashikiran N. Patil, Advocate h/f Mr A. B. Shinde, Advocate
for respondent

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 8th December, 2021

PER COURT:

1. The learned Advocate representing the respondent submits that he has received instructions to appear. He has still not filed '*Vakalatnama*'.

2. The appellant is the original petitioner before the learned Family Court at Nanded, in Petition No.A-161/2014, filed by her on 11/06/2013, seeking divorce from the respondent-husband on the grounds of cruelty and desertion. By the Judgment dated 16/12/2015, the learned Family Court has dismissed the proceedings and was not convinced with the reasons cited for

(2)

seeking divorce. It was held that the appellant failed to establish both the grounds.

3. By this application, the appellant prays for condonation of delay of 1415 days, caused in filing the appeal. The ground put forth is that the respondent-husband resided with her only for 2 to 3 months after the impugned judgment. He had secretly entered into a second marriage with a lady, whose marital name is Jyoti Vijay Pujari. A male child is born to the respondent from his relation with Jyoti, on 23/12/2013, which indicates that he must have married her at least a year there-before. This was suppressed from the learned Family Court, inasmuch as, the appellant got the knowledge of this fact in 2019 and has filed an appeal on 12/02/2020.

4. From the pleadings set out in the civil application, there is hardly any contention which would justify condonation of delay of 1415 days. There are practically no reasons assigned.

5. Besides the above, the appellant's case before the learned Family Court was not on the ground that the respondent has entered into a second marriage. The grounds raised by her were of desertion and cruelty. It is the husband, who has purportedly

(3)

told her that he has entered into a second marriage. However, this ground has not been pressed by the appellant by seeking an amendment to the petition. As such, the knowledge of the husband's illegal second marriage and a child born to him, are aspects which have come to the knowledge of the appellant in 2019 and this would, therefore, constitute a fresh cause of action.

6. In view of the above, we are of the view that neither the delay has been explained, nor it would serve any purpose in accepting the appeal in view of the facts which have come to the knowledge of the appellant in 2019. She may avail of a remedy as may be permissible in law, against such act of the husband.

7. This civil application is, therefore, rejected. The Family Court Appeal stands disposed off.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

sjk