

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

904 CIVIL APPLICATION NO.14486 OF 2019
IN FAMILY COURT APPEAL [STAMP] NO. 38596 OF 2019
WITH
CIVIL APPLICATION NO.14487 OF 2019
IN FAMILY COURT APPEAL [STAMP] NO.38596 OF 2019

...
PRIYANKA W/O. SATISH JADHAV
VERSUS
SATISH JADHAV S/O. SHANKARRAO JADHAV
...

Mr.G.R.Syed, Advocate for the applicant
Mr.S.S.Bora, Advocate for the respondent-sole.
...

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

DATED : 21.09.2021

PER COURT :

Civil Application No.14486 of 2019 :-

1. By the first Civil Application, the appellant – applicant prays for condonation of delay of 292 days caused in filing the appeal.

2. The learned Advocate for the respondent opposes the application strenuously and prays for costs while rejecting the Civil Application.

3. We have perused the reasons set out in the application. The decree of divorce granted, which is impugned herein, is *ex parte*. The applicant claims that she had no knowledge. The delay of 292 days is neither inordinate nor does it appear to be deliberate.

4. In view of the above, Civil Application No. 14486 of 2019 is allowed. The delay is condoned. Subject to removal of all office objections within two weeks from today, the Appeal shall be registered.

Civil Application No.14487 of 2019 :-

5. In so far as the second Civil Application is concerned, Shri Bora, learned Advocate submits that the appeal period of 30 days has expired, during which time the respondent did not re-marry. After the appeal period and before this Court could grant ad-interim protection to the applicant on 06.12.2019, the respondent, former husband, had already re-married (performed a second marriage). As such, he rightly submits that there cannot be any injunction upon the respondent - former husband as the doctrine of impossibility would play a role.

6. In view of the above, Civil Application No. 14487 of 2019 is disposed of.

Family Court Appeal [Stamp] No.38596 of 2019 :-

7. Learned Advocate for the appellant (former wife) submits that her case rests on an *ex parte* divorce decree having been obtained by the respondent by playing a fraud. These litigants would spend at least a decade in this Court if the appeal is admitted, considering the pendency. He therefore prays that instead of admitting the appeal, the same could be heard finally at admission stage as the record and proceedings have been received by this Court.

8. Shri Bora, learned Advocate submits that he has no difficulty in accepting the request of the applicant - appellant.

9. In view of the above, we are listing this Appeal for hearing at admission stage on 14th October, 2021.

**[S. G. MEHARE]
JUDGE**

**[RAVINDRA V. GHUGE]
JUDGE**