

IN THE HIGH COURT OF ORISSA AT CUTTACK

RSA No.422 of 2013

Kailash Chandra Sahu

....

Appellant

-versus-

Puspalata Sahu & Another

....

Respondents

CORAM:

MR. JUSTICE D.DASH

ORDER

22.04.2022

Order No.

Misc. Case No.794 of 2013

02. 1. This matter is taken up through hybrid arrangement (virtual/physical) mode.
2. The Appellant has filed this application for condonation of delay in filing the Appeal under Section 100 of the Civil Procedure Code (for short, 'the Code').
3. Heard.
4. The Respondent No.1 is the wife and Respondent No.2 is the daughter of the Appellant. They as the Plaintiffs had filed C.S. No.05 of 2010 in the Court of the learned Civil Judge, Senior Division, Boudh arraigning the Appellant as the Defendant.

In the said suit, the Respondent No.1 (Plaintiff No.1), while praying for a decree of dissolution of her marriage with the Appellant (husband); a further prayer had been made for providing some funds for higher education and marriage of her daughter, who at the time of institution of the suit, was a minor. The suit has been decreed dissolving the marriage between the Appellant and Respondent No.1 by a decree of divorce. It had been directed therein that the Appellant would pay a sum of Rs.5000/- per month for the maintenance and study expenses of the Respondent No.2 till she stands able to maintain her livelihood or till her marriage.

The present Appellant being aggrieved by the same, had filed an Appeal under Section 96 of the Code before the learned District Judge, Boudh. The Appellate Court then has modified the quantum of maintenance payable to the Respondent No.2.

The Appeal being disposed of by the judgment and decree dated 24.01.2013 and 31.01.2013 respectively, the present Appeal has been filed on 13.11.2013 and in the process, there has been a delay of 197 days.

5. Heard Mr.S.Mishra, learned Counsel for the Appellant. Reiterating the averments taken in the application, he submits that although the Memorandum of Appeal was ready for presentation before this Court in time, yet as the file in the office somehow got being tagged with other files and remained untraced; there has been a delay and it was traced out after the Appellant on receipt of the notice in the Execution Proceeding came for moving for stay of further proceeding. The Respondent No.2, at the time of presentation of this Appeal, was 18 years old and it is also stated that she has married. The Execution Proceeding has not been stayed and this Appeal is lying on Board without being admitted from the year 2013.

6. In the fact situation; taking into the submissions made and on going through the avements taken in the petition; this Court finds the explanation offered for the delay as not accepted on their face value so as to entertain the Application for condonation of delay by issuing notice to the Respondents.

7. Accordingly, the misc. Case stands dismissed.

**(D. Dash),
Judge.**

Order No.

ORDER
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03. 1. In view of the order passed today in Misc. Case No.794 of 2013, this Appeal stands dismissed.

(D. Dash),
Judge

Basu

