

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No. 140 OF 2022

***Radhamohan @ Aswini Behera @
Aswani Behera @ Aswin Kumar
Behera*** ***Petitioner***

Mr. Hemanta Kumar Ratsingh,
Advocate

-versus-

Jayanti Kumari Parida and another ***Opp. Parties***

**CORAM:
JUSTICE K.R. MOHAPATRA**

ORDER

16.08.2022

I.A. No.196 of 2022

Order No.

2.
 1. This matter is taken up through hybrid mode.
 2. This is an application for condonation of delay of two hundred twelve days in filing the RPFAM.
 3. In course of hearing, Mr. Ratsingh, learned counsel submits that the Petitioner has a remedy under proviso to Section 126 (2) Cr.P.C. to assail the order dated 9th September, 2021 passed by learned Judge, Family Court, Keonjhar in CrI.P. No.49 of 2020, which is under challenge in this RPFAM. He, therefore, prays for withdrawal of the RPFAM to enable the Petitioner to move learned Judge, Family Court, Keonjhar to set aside the *ex parte* order. He further submits that delay in filing the petition for setting aside the *ex parte* order under proviso to Section 126 (2) may be considered liberally.
 4. In view of such submission, this Court disposes of the RPFAM as withdrawn with an observation that while

adjudicating the petition for condonation of delay, if any, in considering the petition under proviso to Section 126 (2) of the Cr.P.C., learned Judge, Family Court, Keonjhar should take into consideration the period of pendency of the writ petition before this Court from 8th July, 2022 till the next date along with other grounds.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

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