

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No. 252 of 2018

Sarojini Deo

....

Petitioner

Mr. Prafulla Kumar Mohapatra, Advocate

-versus-

Madhusudan Sahoo

....

Opp. Party

Mr. Umesh Chandra Dora, Advocate

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

ORDER

21.12.2022

Order No.

IA No.504 of 2019 & RPFAM No. 252 of 2018

6.
 1. This matter is taken up through Hybrid mode.
 2. This is an application for condonation of delay of 259 days in filing the RPFAM.
 3. This RPFAM has been filed assailing the order dated 2nd December, 2017 (Annexure-3) passed by learned Judge, Family Court, Dhenkanal in Cr.P. No.30 of 2017 (arising out of CrI. Misc. Case No.224 of 2005), whereby the Opposite Party has been directed to pay maintenance of Rs.4,000/- per month to the Petitioner.
 4. Learned counsel for the Petitioner submits that the delay in filing the RPFAM occurred due to non-filing of the certified copy of impugned order under Annexure-3. As the Petitioner could not obtain certified copy of the impugned order at time of filing of the RPFAM, this Court vide order dated 26th August, 2019 allowed the petition (IA No.177 of 2019) for dispensing with filing of certified copies of Annexures-1 and 2, but the Petitioner after obtaining certified copy of Annexure-3 filed the

same. Thus, the delay in filing the RPFAM is bona fide and not intentional.

5. Learned counsel for the Opposite Party vehemently objecting to the same contends that the impugned order passed on 2nd December, 2017 and the RPFAM has been filed on 16th November, 2018. There is nothing on record to show as to why Petitioner took almost a year to obtain the certified copy of the impugned order. Hence, he prays for dismissal of the IA as well as the RPFAM.

6. Considering the rival contentions of the parties, this Court finds that the only ground on which the Petitioner sought for condonation of delay of 259 days in filing the RPFAM is due to non-availability of the certified copy of the impugned order. There is no statement in the petition for condonation of delay as to when the Petitioner applied for certified copy and when it was granted. On the other hand, from the record, it appears that along with the RPFAM, the Petitioner had filed IA No.177 of 2019 for dispensing with filing of certified copy of the orders under Annexures-1, 2 and 3. This Court, vide order dated 26th August, 2019 dispensed with filing of certified copy of Annexures-1 and 2, but the certified copy of the impugned order under Annexure-3 was not filed. However, a free copy supplied by the learned Judge, Family Court, Dhenkanal has been annexed to the brief. Thus, the plea taken by the Petitioner for condonation of delay cannot be accepted for condoning the delay of 259 days in filing the RPFAM. Further, the Petition in this RPFAM prays for enhancement of the quantum of maintenance granted in her favour for which the Petitioner has other remedy available under Cr.P.C.

7. In view of the above, this Court finds that no sufficient cause has been assigned by the Petitioner for condonation of delay of 259 days in filing the RPFAM. Accordingly, the IA filed for the purpose is rejected.

8. Consequently, the RPFAM also stands dismissed.

(K.R. Mohapatra)
Judge

s.s.satapathy

