

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

**CIVIL APPLICATION NO.898 OF 2022
IN
FAMILY COURT APPEAL (ST) NO.17284/2021**

Pramod S/o Shankarrao Sawant
Aged: 37 years, Occu: Service
R/o Kalyannagar, Nanded,
At present Survey No.82,
Behind Bhairoba Temple,
Hadapsar, Pune

... Petitioner

Versus

Sujata W/o Pramod Sawant
Aged: 34 years, Occ: Household
& Private Service,
R/o C/o Pandurang Dawane,
Ashirwadnagar, Pivil Girni,
Nanded, Tq. & Dist. Nanded

... Respondent

...

Mr. S. M. Kamble, Advocate for the Applicant
Mr. G. G. Suryawanshi, Advocate for Respondent

...

**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**

Reserved on : 23.01.2023

Pronounced on : 01.02.2023

ORDER : [PER S. G. CHAPALGAONKAR, J.]

1. The present Civil Application is filed seeking to condone the delay of 296 days caused in filing the Family Court Appeal under the provisions of Section 19 of the Family Courts Act, 1984 [hereinafter referred to as 'the Act' for short]. The applicant seeks to challenge the judgment and order dated 18.02.2019, passed by the Family Court, Nanded in Petition No.C-4 of 2017.

2. It appears that an application for certified copy was filed on 18.02.2020 and the copy is delivered on 24.02.2020. The applicant had, thereafter, filed Civil Revision Application No.73 of 2019 on 13.03.2019 before this Court and the same has been withdrawn with liberty to file an appeal on 31.01.2020. The appeal with present Civil Application is filed on 26.02.2021.

3. The applicant states that the delay caused in filing the appeal is not intentional. As advised to him, he had initially filed the Civil Revision Application challenging the judgment and order of the Family Court. However, the said application has been withdrawn with liberty to file the appeal. It is the case of the applicant that after withdrawal of the Civil Revision Application, he was again advised to obtain the certified copy of the judgment passed by the Family Court. He made such arrangements and some time was consumed in obtaining the certified copy.

4. The respondent filed an affidavit-in-reply and opposed the prayers in the application. It is submitted that the delay of 296 days is not properly explained. The applicant has received certified copy on 24.02.2020, however, the appeal along with this application is filed on 08.07.2021. As such, there is an inordinate delay, which cannot be condoned.

5. We have heard the learned advocates appearing for respective parties. It appears that the applicant had challenged the judgment and order passed by the Family Court by filing Civil Revision Application No.73 of 2019, which was presented on 13.03.2019 i.e. within the period of 30 days from the date of the order. However, after noticing that he is prosecuting the wrong remedy, withdrawn the Civil Revision Application with liberty to file the appeal.

The order dated 31.01.2020 permits him withdrawal of the Civil Revision Application with liberty to file the appeal which is placed on record before us.

6. The Supreme Court of India excluded Covid-19 period from 15.03.2020 to 28.02.2022 in computing the period of limitation vide order dated 10.01.2022 passed in Miscellaneous Application No. 21 of 2022, in Miscellaneous Application No. 665 of 2021 in Suo-Motu Writ Petition (C) No.3 of 2020. The present Civil Application appears to have been filed on 06.04.2021 during the period that has been excluded in computing the limitation period.

7. Taking into account the aforesaid factual aspects, the delay of 296 days is properly explained and will have to be condoned. Hence, the Civil Application is allowed.

8. The delay of 296 days caused in filing the appeal against the judgment and order dated 18.02.2019, passed by the Family Court, Nanded in Petition No.C-4 of 2017 is condoned.

9. Appeal be registered.

10. On registration, the appeal be posted for admission.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

Sameer