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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 11.05.2023

MAT.APP.(F.C.) 123/2023

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PRITKARAN NARANG

..... Appellant

versus

VIKRAMJEET SINGH & ANR.

..... Respondents

Advocates who appeared in this case:

For the Appellant: Mr. Nishchal Joshi, Advocate with appellant in person.

For the Respondent: Mr. Devesh Dubey with Mr.Vikramjeet Singh, Advocates.
Respondent (through V.C.)

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.22761/2023 (exemption)

Exemption allowed subject to all just exceptions.

CM APPL.22759/2023 (for condonation of delay in filing)

There is an application seeking condonation of delay of six days. Appellant has been able to show reasonable cause for condonation thereof.

Accordingly, the application is allowed. The delay of six days in filing the appeal is condoned.

MAT.APP.(F.C.) 123/2023 & CM APPL.22760/2023 (stay)

1. Appellant impugns order dated 07.02.2023, whereby the application of the appellant seeking recall of order dated 14.10.2019 whereby her right to file written statement was closed, has been dismissed and the learned Family Court did not condone the delay in filing the written statement.
2. Learned counsel for the appellant submits that appellant has been very vigilant and was misled by her counsel and thus the written statement could not be submitted within time. She submits that she has also filed a complaint before the Bar Council of Delhi against the counsel in which notice has already been issued to her erstwhile counsel.
3. Issue notice. Notice is accepted by learned counsel appearing on behalf of the respondent Mr. Devesh Dubey.
4. Learned counsel for the respondent disputes the contentions of the appellant. He submits that the conduct of the appellant is duly highlighted in the impugned order dated 07.02.2023 which shows that she was negligent and did not file the written statement despite several opportunities. He, however, submits that in view of expeditious disposal of the divorce petition, in case directions are issued for the time-bound disposal to the learned Family Court, he would have no

objection to the appeal being allowed and one opportunity being granted to appellant to file the written statement.

5. Even though the learned Family Court has noticed that several opportunities were granted to the appellant, we find that appellant has shown her bonafide by even making a complaint against her counsel. Substantial amount of fee was paid by the appellant to her previous counsel and there was complete faith reposed by the appellant in her counsel and it appears that the subject order was passed on account of her counsel not filing the written statement.

6. It is also averred in the complaint to the Bar Council of India that her erstwhile counsel was trying to extort money and even refused to return her case file. The Bar Council of Delhi has even referred the matter to its disciplinary committee for further adjudication.

7. Without commenting upon the allegations made in the complaint against the erstwhile advocate, we are of the view that the conduct of the appellant was not negligent and she appears to have been diligent in defending the proceedings and has suffered adverse orders *prima facie* in view of the conduct of her counsel.

8. In view of the above and also in view of the stand taken by the counsel for the respondent we set aside the order dated 07.02.2023 as also the order dated 14.05.2019. Appellant shall file the written statement on the records of the learned Family Court on 19.05.2023, the next date before the Family Court with advance copy to learned counsel for the respondent who shall file replication by 31.05.2023.

9. The Family Court shall thereafter endeavor to conclude the case by 31st March, 2024.

10. Keeping in view of the fact that there is no order of maintenance, we are not inclined to impose any further cost on appellant for allowing the petition.

11. The petition is allowed in the above terms.

12. Order *dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

MAY 11, 2023

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