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

% ***Date of decision: 09th August, 2023***

+ MAT.APP.(F.C.) 202/2022, CM APPL. 54411/2022,
CM APPL. 40615/2023

SMT KULDEEP KAUR Appellant

Through: Mr. Manish and Mr. Mehr Singh,
Advocates.

versus

SH. NANAK MEHTA Respondent

Through: Mr. Sanjay Kumar and Mr. Ravi Kant
Mahajan, Advocates along with
respondent in person.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CM APPL. 54410/2022

1. An application under **Section 5 of the Limitation Act** has been filed for condonation of delay in filing the appeal against judgment and decree dated 19.11.2019 allowing the petition of divorce filed by the respondent.
2. It is submitted in the Application that the appellant was unable to receive the copy of judgment. When she was somehow able to manage a copy of the same, she searched for the present counsel, however, due to Covid-19 Pandemic, the appeal could not be filed. After the Lockdown was



lifted, she again approached her lawyer, who lost his file. It is only after arranging the documents that the appeal was prepared by the learned counsel, but in the process there was a delay of 344 days which may be condoned.

3. **Submissions heard.**

4. The appellant has filed the present appeal on 14.11.2022 against the judgment dated 19.11.2019. On the date of judgment there was no Lockdown, which got imposed from March, 2020 by which time the 90 days for filing the Appeal, had already expired. Since the period of Appeal had already expired before imposition of Lockdown, she cannot claim benefit of excluding the period from 15th March, 2020 till 28th February, 2022 on the basis of which she has calculated a period of 344 days. In fact, the limitation has to be calculated from the date of judgment which is for more than three and a half years. Moreover, only vague assertions have been made that she was unable to get a copy of the judgment and that her lawyer thereafter lost the file.

5. The non-descript, non-specific and vague explanation given by the appellant in her application, lack any merit. There is no explanation whatsoever what to talk of sufficient ground, for condonation of delay. The appeal is highly belated and there is no ground for condonation of delay. The application is hereby **dismissed**.

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6. In view of the Order passed in the application for condonation of delay in filing the appeal, the appeal also stands dismissed being barred by limitation.



7. The pending applications also stands disposed of accordingly.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 09, 2023/va