

CM-6118-CII-2024 IN/AND
FAO-1033-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-6118-CII-2024 IN/AND
FAO-1033-2024 (O&M)
Date of decision: April 15, 2024

Pankaj Kumar @ Pankaj

....Appellant

versus

Priyanka

....Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE HARSH BUNGER**

Present:- Ms.Krity Lohar, Advocate and
Mr. Lakshit Muthreja, Advocate for appellant.

SUDHIR SINGH, J. (ORAL)

CM-6118-CII-2024

Application herein is for restoration of main appeal, which stands dismissed for non-prosecution, vide order dated 04.03.2024.

For the reasons stated in application, same is allowed. Order dated 04.03.2024 is recalled and main appeal is restored to its original number. On oral request of learned counsel for appellant, the same is taken on Board today itself.

FAO-1033-2024 (O&M)
CM-4073-CII-2024

Application herein is for condonation of delay of 580 days in filing the appeal.

For the reasons stated in application, same is allowed. Delay of 580 days in filing appeal is condoned.

Main case (O&M)

Appeal herein is against the impugned order dated 02.04.2022 passed by learned Additional Principal Judge, Family Court, Faridabad, whereby, petition

under Section 12 of the Hindu Marriage Act, 1955 (for short 'Act of 1955') filed by the appellant for declaration of marriage of the parties as null and void, was dismissed for non-prosecution.

2. Perusal of the record reveals that in the year 2019, petitioner had filed a petition under Section 12 of the Act of 1955 seeking declaration of marriage of the parties as null and void. Vide order dated 23.10.2019, learned Court below issued notice to the respondent. Further, vide order dated 15.03.2022, following order was passed by the learned Court below:-

“Notice to respondent could not be issued as RC, postal charges not filed. Counsel for the petitioner is directed to provide the same within seven working days and thereafter notice to the respondent be issued for 02.04.2022 through registered post as well as ordinary process. Notice by hand be given, if desired. It is made clear that if petitioner failed to file the RC, postal charges before the next date, then petition shall be deemed to be dismissed for non-compliance of the order. It shall be the last opportunity.”

3. Thereafter, vide impugned order dated 02.04.2022, petition filed by the appellant was dismissed for non-prosecution for non-compliance of aforesaid orders. Appellant has challenged the aforesaid order.

4. Considering the nature of relief sought for and the grounds taken in the appeal herein, impugned order dated 02.04.2022 passed by learned Additional Principal Judge, Family Court, Faridabad is set aside, subject to the condition that the appellant shall appear before the concerned Court on 29.04.2024 and the aforesaid orders dated 23.10.2019 as well as 15.03.2022 passed by the Court below be complied within a period of 03 weeks thereafter, as indicated above. Further, a costs of Rs.10,000/- is also imposed on the appellant to be deposited with the **“Poor Patients’ Welfare Fund, PGIMER, Chandigarh”** and the said amount would be spent for the treatment of poor patients with the knowledge of its Medical Superintendent.

5. With the aforesaid observations and directions, instant appeal stands disposed of.
6. Pending application(s), if any, shall also stand disposed of.

(SUDHIR SINGH)
JUDGE

(HARSH BUNGER)
JUDGE

April 15, 2024

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No