



2024:DHC:7163-DB



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

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Date of Decision: 09.09.2024+ **MAT.APP.(F.C.) 285/2024**

DR SITANSHI SHARMA

.....Appellant

Through:

Mr Amit Sibal & Mr Sunil Mittal, Sr
Advocates with Mr Rajiv Bakshi, Mr
Ram Pravesh Rai, Mr Pranav Pareek and
Mr Shrey Shrivastava, Advs.

versus

DR ACHINTYA SHARMA

.....Respondent

Through:

Ms Malvika Rajkoita with Mr Siddharth
Arora, Ms Jasleen Kaur Raina and Mr
Ramakant Sharma, Advs.**CORAM:****HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (ORAL):****CM Appl.49841/2024**

1. Allowed, subject to just exceptions.

CM Appl.52319/2024

2. The above-captioned application seeks to amend the appeal. The application has been triggered due to order passed by the family court on a review application preferred by the appellant concerning the order dated 15.02.2024.

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3. Issue notice.

3.1 Ms Malvika Rajkotia accepts notice on behalf of the non-applicant/respondent.

4. Ms Rajkotia says that she does not wish to file a reply to the application, having regard to the fact that the amendment to the appeal has been sought at an early stage.

5. The prayer made in the application is allowed.

6. Accordingly, the amended appeal is taken on record.

CM Appl.49840/2024

7. This is an application filed on behalf of the appellant seeking condonation of delay in filing the appeal.

7.1 Even according to the appellant, there is a delay of 146 days.

8. Issue notice.

8.1 Ms Rajkotia accepts notice on behalf of the non-applicant/respondent.

9. Ms Rajkotia says that in view of the order that the Court proposes to pass, she would have no objection if the Court were to condone the delay.

10. We are inclined to condone the delay, in the facts and circumstances obtaining in the case. It is ordered accordingly.

11. The application is disposed of.

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12. This appeal seeks to assail the judgment and order dated 15.02.2024 passed by the family court.



13. It is the contention of Mr Amit Sibal, learned senior counsel, who appears on behalf of the appellant, that the appellant was not given adequate opportunity of being heard in the matter.

14. Ms Rajkotia, on the other hand, says that the application under Order VII Rule 11 of the Code of Civil Procedure, 1908 [in short, “CPC”] was filed by the appellant on 06.07.2021 and it has been hanging fire since then. Ms Rajkotia, thus, submits that the grievance articulated before the Court that the appellant has not been given enough opportunity to put forth her case does not hold water.

14.1 That said, Ms Rajkotia says that if this Court were to remand the matter and fix a date for re-hearing the application, she would have no objection to issuance of such direction.

15. Having regard to the fact that this matter revolves around a marital discord obtaining between the parties, we are of the opinion that both sides should have complete say concerning their respective contentions.

16. Accordingly, as agreed by the counsel for the parties, the impugned judgment and order is set aside.

17. Since pleadings are complete in the application preferred by the appellant under Order VII Rule 11 of the CPC, we request the concerned family court judge to re-hear the application on 07.10.2024.

18. The appeal is disposed of in the aforesaid terms.

19. Consequently, CM Appl.49839/2024 shall stand closed.



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20. The Registry is directed to dispatch a copy of the order passed today to the concerned family court.

RAJIV SHAKDHER, J

AMIT BANSAL, J

SEPTEMBER 9, 2024/pmc

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