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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.706 OF 2020

Gorakshnath Ramchandra Chaudhari

PETITIONER

VERSUS

Kalinda Gorakshanath Choudhari

RESPONDENTS

.....
Ms. Kajal P. Angarkhe h/f Mr. P. P. Khandagale Patil, Advocate the
Petitioner

.....

[CORAM : MANJUSHA DESHPANDE, J.]

DATE : 3rd FEBRUARY, 2025

ORDER :

1. The Petitioner has challenged order dated 29th November, 2019 passed by District Judge - 5, Beed in Civil Miscellaneous Application No. 43 of 2019. Civil Miscellaneous Application No. 43 of 2019 was filed by the Petitioner seeking condonation of delay caused in filing Appeal against the judgment and decree passed in Hindu Marriage Petition No. 206 of 2009.

2. Being aggrieved by the judgment and decree passed by Civil Judge, Senior Division, Beed in HMP No. 206 of 2019, whereby petition filed by the Petitioner for divorce has been rejected, the Petitioner had preferred an Appeal. However, since there was delay in filing Regular Civil Appeal, the Petitioner had filed Civil Miscellaneous Application No. 43 of 2019 for

condonation of delay. Though the Hindu Marriage Petition has been decided on 14th December, 2018, the Civil Miscellaneous Application was filed on 15th March, 2019. While justifying the delay of 62 days, it was contended by the Petitioner that since he is labour and was required to migrate out of Beed district to earn his livelihood, therefore, he could not file the appeal within the prescribed period of limitation. The other ground is that because of financial constraints faced by him, the Petitioner could not file appeal within time.

3. While considering the reasons given by the Petitioner, it is observed by the Appellate Court that the grounds mentioned for delay caused in filing application are contrary to the pleadings. As per the contention of the Respondent, though the Petitioner has claimed that he is labour, that is contrary to the record and in fact the applicant was working as Assistant Account Officer in Child Development Project and now he is retired. Therefore, contention of the Petitioner that he was required to move out of Beed District for earning his livelihood appears to be false and frivolous. It is further observed that, considering that the proceedings of maintenance are going on between the parties, lack of knowledge of order impugned cannot be a ground as he must have been aware of the decision in the Hindu Marriage Petition. Therefore, not being satisfied with the reasons for delay

mentioned in the Application, the Appellate Court has rejected the application for condonation of delay.

4. I have gone through the order impugned as well as the application for condonation of delay which is annexed to the Petition. In the application, except statement that the Petitioner was required to shift out of Beed District for earning livelihood, there is no other reason justifying the delay. Upon going through the judgment and decree passed in the Hindu Marriage Petition, it is clear from the title itself that the Petitioner was employed as has been stated by him that his occupation as service. In view of the title of judgment in HMP No. 206 of 2009, where his occupation is recorded as service, the claim of the Petitioner about being a labour, stands falsified. In the memo of HMP No. 206 of 2009, there is a pleading that the Petitioner is employed in the Child Welfare Department, Beed. Thus, the averments in application are false and frivolous. Therefore, considering the claim of the Petitioner made in the application is contrary to the record itself, no case is made out by the Petitioner to cause interference in the order impugned.

5. As a result, Writ Petition is dismissed.

[MANJUSHA DESHPANDE]
JUDGE