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IN THE HIGH COURT OF BOMBAY AT GOA

**MISC. CIVIL APPLICATION NO.490 OF 2024
IN
FIRST APPEAL NO.2713 OF 2024 (F)**

NISHA @ NEETU

... Applicant.

Versus

SUNIL KUMAR

... Respondent.

Mr. Dr. Vivek Bhardwaj with Ms. Avani Chodanker, Advocates
for the Applicant.

Mr. Ravi Anand with Ms. Varneshwi Fondekar, Advocates for
the Respondent.

CORAM: VALMIKI MENEZES, J.

DATED: 23rd September, 2025

ORDER:

1. By an operative part of the order passed earlier today at 5:00 p.m., the present application was allowed, condoning delay of 105 days in filing First Appeal 2713/2024(F). The operative part of that order recorded that the reasons for granting the application would follow, considering that one of the Counsel was heard in the matter had come from New Delhi and the matter was required to be heard beyond Court timings of 4:30 p.m. The reasons for grant of the application are found hereunder.

2. It is the case of the Applicant in the application, that she was unaware of the disposal of the Matrimonial Petition No. 33/2023/B, by Judgment and Decree dated 05.04.2024. The Applicant has stated that the Decree was passed ex-parte. The application has been opposed by the Respondent who has filed a reply. According to the reply, the Applicant has not explained the delay of 105 days sufficiently and it is further stated that perusal of the Roznama of the Matrimonial Petition would bear out that the Petitioner was very much served through a notice sent by Registered Post A.D., the tracking report of which bears out service of summons of the Matrimonial proceedings. The affidavit in reply further avers that the Applicant filed a Transfer Petition (Civil) 53653/2023 before the Supreme Court seeking transfer of Matrimonial Petition No.33/2023/B in which the impugned Decree has been passed, to a Court in New Delhi, where the Applicant's DV case was pending. The Respondent has further averred that the fact that Judgment and Decree dated 05.04.2024 disposing of the Matrimonial Petition was brought to the knowledge of the Applicant before the Supreme Court which has recorded this fact in its order of 19.09.2024, after taking the Judgment of the Civil Court on record.

3. Though it is true that these facts have not been stated in great detail in the application for condonation of delay, the fact remains that the Judgment and Decree challenged in the First Appeal was brought to the notice of the Applicant in the Supreme Court, when the same

was placed on record on 19.09.2024 and the Transfer Application was dismissed. Perusal of the Roznama of the matrimonial suit annexed to the reply would show that a fresh notice was sent to the Applicant herein sometime after 01.09.2023 and a memo at Exhibit D-8 placing on record the postal slip was entered on 25.10.2023 in the Roznama. The Roznama mentions only on 03.01.2024, after checking the tracking report that the Applicant was duly served. The matter proceeded ex-parte when the Respondent's evidence was recorded on 14.02.2024, by which time a Transfer Application had been filed before the Supreme Court. No doubt, the Applicant had knowledge of the pendency of the suit, but, considering that she was from Delhi, she had sought transfer of the Matrimonial Petition from Goa to Delhi. It is obvious from the record that by the time the Transfer Application came up for hearing on 19.09.2024, the suit had been decreed ex-parte on 05.04.2024 as recorded in the Roznama.

4. It is obvious therefore from the record of the Supreme Court, that the date of knowledge that the suit had been disposed, was at earliest on 19.09.2024. Perusal of the impugned Judgment and Decree would show that the Applicant applied for a certified copy immediately thereafter on 04.10.2024, obtained the certified copy on 14.10.2024 and filed the present Appeal on 23.10.2024. From the date of knowledge which is 19.09.2024 to the date of presentation of the Appeal, which is a little over a month from the knowledge, can be considered a reasonable time for filing the Appeal after knowledge

was gained, considering that the Trial Court took ten days for issuing the certified copy.

5. For the aforesaid reasons, the delay in filing the Appeal has been sufficiently explained. Hence, the delay can be condoned.

6. The application is allowed, the delay in filing the First Appeal is condoned. Registry to register First Appeal No. 2713/2024 (F) and place the matter on the Admission Board thereafter.

VALMIKI MENEZES, J.