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

+ **MAT.APP.(F.C.) 352/2025, CM APPL. 61251/2025**

SONUAppellant

Through: Mr. S G Goswami, Adv.

versus

OMA DEVI ALIAS OMA WATIRespondent

Through: *Nemo.*

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

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25.09.2025

CM APPL. 61250/2025*[Condonation of delay in filing the Appeal]*

1. This is an application filed by the Appellant seeking condonation of delay of 195 days in filing the present Appeal.
2. For the reasons as stated in the application, the delay is condoned.
3. The application stands disposed of.

MAT.APP.(F.C.) 352/2025, CM APPL. 61251/2025*[For exemption]*

4. Through the present Appeal, the Appellant assails the correctness of an order dated 15.01.2025 [hereinafter referred to as 'Impugned Order'] passed by the Family Court, whereby the Guardianship Petition under Section 25 of the Guardians and Wards Act, 1890 filed by the Appellant was dismissed by the Family Court.
5. A perusal of the record reflects that the Guardianship Petition was filed by the Appellant in the year 2021 and was dismissed by the



Family Court on the ground that the Appellant failed to lead any evidence in the matter, despite numerous opportunities granted to him. The Appellant even failed to step into the witness box. Paragraphs No.7, 8 and 15 of the Impugned Order read as follows:

“7. On 04.05.2023, 02.09.2023, 24.11.2023 and 22.02.2024, the petitioner failed to lead his evidence. Vide order dated 02.09.2023, final opportunity was granted to the petitioner for petitioner's evidence (PE). Vide order dated 24.11.2023, one last opportunity was granted to the petitioner to lead evidence subject to cost of Rupees Two Thousand only (Rs.2000/-) to be paid by the petitioner to the respondent. On 22.02.2024, no further opportunity was granted and petitioner's evidence (PE) was ordered to be closed. Matter was adjourned for respondent's evidence (RE). On 24.05.2024, the cost of Rupees Two Thousand only (Rs.2000/-) was paid in cash by the petitioner to the respondent number 1 in the Court. Respondent number 1/RW-1 was examined in chief and her cross examination was deferred as main counsel for the petitioner was not available today being busy in hon'ble High Court of Delhi. Vide order 09.08.2024, the cross examination of RW-1 was not recorded despite opportunity as the counsel for the petitioner was not available and the respondent's evidence (RE) was closed. The matter was ordered to be listed for final arguments on 25.09.2024.

8. On 25.09.2024, a fresh power of attorney (POA/vakalatnama) was filed on behalf of the petitioner and an application for seeking the permission for re-open the petitioner's evidence under order 18 rule 17 of the CPC and setting aside the orders dated 22.02.2024 and 09.08.2024 was filed on behalf of the petitioner.

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15. It is clear on perusal of the record that the petitioner who was appearing in person or through his counsel was fully aware of the proceedings and that adjournments were taken by him for his evidence and even cost for the said purpose was imposed upon him. After the closure of the petitioner's evidence (PE) on 22.02.2024, the respondent's evidence (RE) was led and closed on 09.08.2024. It was at the stage of the final arguments on 25.09.2024, the petitioner brought a new counsel and moved the application under consideration by putting the blame on his previous counsel and by feigning ignorance of the proceedings.”

6. Learned counsel representing the Appellant submits that one additional opportunity may be granted to the Appellant to lead his evidence in the matter.



7. This Court has heard the submissions made by the learned counsel representing the Appellant. Ordinarily, the Court would be inclined to grant such indulgence, however, in the facts and circumstances of the present case, where the Family Court has already granted indulgence to the Appellant on various dates of hearing, this Court does not find it appropriate to interfere with the Impugned Order.

8. With these observations, the present Appeal is dismissed. The pending application also stands closed.

ANIL KSHETARPAL, J

HARISH VAIDYANATHAN SHANKAR, J.

SEPTEMBER 25, 2025

jai/db