

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.230 of 2024

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Sweety Kumari W/o- Sri Abhishek Raj, D/o- Sri. Shyam Sundar Singh, R/o- 103 C-Block, Quality Campus, Lohia Path, Jagdeo Path, Bailey Road, P.S.- Hawai Adda, District- Patna, presently residing at

... .. Appellant/s

Versus

Abhishek Raj S/o- Sri. Anand Kumar Singh, Presently residing of 402, Krishna Block Jalalpur City, Ram Jaipal Pat, Bailey Road, P.S.- Rupaspura, District- Patna, Mobile- 7091768328.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Shivendra Kr. Sinha, Adv. Mr. Ranjeet Patel, Adv. Mr. Avinash Kr. Singh, Adv.
For the Respondent/s	:	Mr. Durgesh Kumar Singh, Adv. Mr. Abhijeet Kr. Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

8 07-04-2026

I.A. No. 01 of 2025

Heard the parties.

2. This is an application under Section 5 of the Limitation Act filed by the appellant for the condonation of delay by 145 days in preferring the instant appeal. It appears from the record that the appellant was the opposite party/respondent in the learned trial court. She duly appeared to contest the suit filed by her husband praying for a decree of divorce which was registered as Matrimonial Case No. 734 of 2019. It is submitted by learned advocate on behalf of the appellant/petitioner that both the appellant and the respondent



are in medical profession. The appellant is working as a Medical Officer in Bihar State Medical Service. After appearance in the learned trial court there was Covid pandemic and a nation wide lock down was enforced since 15.03.2020 to 28.02.2022. In *suo-moto*, Special Leave to Appeal (Civil) No. 3 of 2020 the Hon'ble Supreme Court was pleased to condone non appearance of either of the parties during the said period in any suit/appeal or any legal proceedings, however, after the lock down was over the impugned judgment was passed on 04.11.2023.

3. It is submitted by the appellant in his petition that due to unavoidable circumstances, appellant could not attend the Court because of the fact that she is a lady of rural area and she does not have any knowledge about the legal proceedings. This averment made by the appellant is palpably wrong because she is highly educated and in medical profession.

4. When the matter was pointed out the learned advocate for the appellant submits that the said averment was made wrongly and inadvertently.

5. We are surprised to note that how a statement on affidavit can be easily described as a wrong statement made inadvertently by the appellant. On the contrary this Court finds that this is a glaring example of perjury for which the appellant



should be held criminally liable.

6. However, we are not going to take such extreme steps. It is a fact that the appellant was not obliged to attend learned trial court from 15.03.2020 to 28.02.2022, but there is no explanation as to why she didn't appeared after the said period. We tried to allow the application for condonation of delay assigning some reason in favor of the appellant, but the appellant nowhere stated that she is a medical officer and due to her professional obligation it was not possible for her to attend the Court or any other convincing ground, for the said reason we do not find any merit in the application under Section 5 of the Limitation Act.

7. Accordingly, application under Section 5 of the Limitation Act is rejected.

8. In view of rejection of application under Section 5 of the Limitation Act, the Matrimonial Appeal is also dismissed being barred by the Limitation Act.

(Bibek Chaudhuri, J)

(Chandra Shekhar Jha, J)

Sudha/S.Tripathi

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