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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11202 OF 2025

Kavita sandeep Babar
@ Kavita Dashrath Ghadage
Vs.
Sandeep Jaganath Babar

.....Petitioner

.....Respondent

Mr. Ranjeeth H. Patil a/w. Mr. Dhavalsinh V. Patil, Advocate for
Petitioner.
Mr. Nagesh Y. Chavan a/w. Mr. Abhang Suryawanshi, Advocate for
Respondent.

CORAM : M.M. SATHAYE, J.

DATE : 24th FEBRUARY, 2026

P.C. :

1. This writ petition is filed by wife challenging order dated 18.07.2025 passed by Judge, Family Court, Sangli below Exh.26 in Petition A. No.385/2020. By the said impugned order, the application filed by the Respondent-husband for condonation of delay in filing 'say' to the restitution of conjugal rights proceedings, is allowed by condoning delay of 04 years, 08 months and 02 days.

2. Learned counsel for the Petitioner-wife submitted that there is no proper explanation for the delay. He submitted that despite the fact that the Respondent-husband had filed divorce proceeding which were being prosecuted, the husband chose not to file any say in the restitution of conjugal rights proceedings. He submitted that after the 'no W.S.' order was passed on 04.02.2022, the restitution of conjugal

rights proceedings were kept for final disposal, when the Respondent-husband made the present application seeking delay condonation. He submitted that the learned Judge of the Family Court has not given proper reasons for condonation of delay. He further submitted that by filing say to the restitution of conjugal rights proceedings, the Respondent-husband is trying to fill up the lacuna which has resulted due to the rejection of amendment application by husband in the divorce proceedings.

3. On the other hand, the learned counsel for Respondent-husband submitted that though there is delay in filing the application, the same was not intentional. He submitted that the chronology of events clearly indicates that the proceedings for the restitution of conjugal rights as well as the divorce proceedings are filed in the same month. That the husband always intended to diligently contest the proceedings. He submitted that the Respondent-husband had filed Vakalatnama in February, 2020. However, thereafter the Corona pandemic started and the Respondent lost his father, due to which the Respondent was under shock. He submitted that he could not attend the restitution of conjugal rights proceedings also because, the proceedings were transferred in the *interregnum* from the regular Court to the Family Court at Sangli which was established at the relevant time. He submitted that the proceedings are already at the stage of conducting cross-examination of Petitioner-wife in the restitution of conjugal rights proceedings. He submits that delay is already condoned and parties are given opportunity to contest on merits and such order should not be

interfered with.

4. I have considered the rival submissions and perused the record.

5. It is not in dispute that the Respondent-husband had filed Vakalatnama in February, 2020 and soon thereafter the COVID pandemic struck. It is a matter of record that from 15 March 2020 till 28 February 2022, the period of limitation was suspended under the orders of the Hon'ble Supreme Court. It is also not in dispute that the Respondent lost his father in the *interregnum*.

6. The learned Trial Judge has considered the relevant dates and has held that the Respondent-husband had filed divorce petition and the same was being prosecuted by remaining present before the Court. After considering the material on record, the learned Trial Judge has exercised discretion by holding that it is necessary to give opportunity to both the sides to decide the matter on merits. The learned Trial Court has also held that if delay is not condoned then it may lead to multiplicity of proceedings. The learned Trial Judge has subjected the Respondent-husband to costs of Rs.20,000/- to compensate the other side.

7. Having considered the impugned order and the reasons stated therein, in my view, the approach of the learned Trial Judge to facilitate the decision on merits, is proper and cannot be faulted with. The dispute is admittedly between husband and wife. It is desirable that the final adjudication takes place on merits and not on technical grounds.

8. Delay condonation, by its very nature, depends on facts and circumstances of each case and there cannot be any straight jacket formula. In the present case, since the discretion is exercised by the learned Trial Judge, this is not a fit case to interfere in the supervisory writ jurisdiction to substitute the discretion. It is common ground that both the divorce petition as well as restitution of conjugal rights are proceeding on merits and evidence is in progress.

9. In that view of the matter, there is no reason to interfere and the **writ petition is accordingly dismissed.**

10. Parties are directed to co-operate with the disposal of the pending proceedings without taking unnecessary adjournments in the matter. It is clarified that present order is passed without prejudice to the rights and contentions of the parties on merits. All contentions, including attempt to fill in lacuna and rejection of amendment application, shall be considered on its own merits, in accordance with law.

11. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)