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

% *Decision delivered on: 05.04.2024*

+ **MAT.APP.(F.C.) 109/2024 & CM Nos.20386-89/2024**

ANURADHA KASHYAP Appellant
Through: Ms Preeti Singh and Mr Sunklan Porwal,
Advs.

versus

DR SUSHIL KUMAR Respondent
Through: Mr Raj Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

CM Nos.20386-87/2024

1. Allowed, subject to just exceptions.

CM No.20389/2024 [Application filed on behalf of the appellant seeking condonation of delay of 24 days in filing the appeal]

2. This is an application filed on behalf of the appellant seeking condonation of delay in filing the appeal.

2.1 According to the appellant, there is a delay of 24 days.

3. Mr Raj Kumar, learned counsel, who appears on behalf of the respondent, says that he would have no objection if the delay is condoned.

3.1 It is ordered accordingly.

4. The application is, accordingly, disposed of.



MAT.APP.(F.C.) 109/2024 & CM Nos.20388/2024 [Application filed on behalf of the respondent seeking interim relief]

5. This appeal is directed against the order dated 09.02.2024 passed by the learned Family Court, Karkardooma Court (East), Delhi. *Via* the impugned order, the appellant's right to cross-examine the respondent [PW-1] has been closed by the Family Court.

6. The reason that the Family Court had to pass such an order is that on the previous date before it, i.e., 22.01.2024, an adjournment had been sought by the appellant. Likewise, when the matter came up for hearing on 09.02.2024, a similar request had been made.

6.1 Ms Preeti Singh, learned counsel, who appears on behalf of the appellant, had moved an application for accommodation on 09.02.2024 as she was busy in a matter that was listed before the Lucknow Bench of the Allahabad High Court.

7. Although, according to us, Ms. Singh should have arranged her affairs in a manner that she remains available for cross-examination of the respondent, i.e., PW-1, we are inclined to grant one more opportunity to the appellant as her interest would suffer on account of the inability of her counsel to remain present on the crucial date.

8. Mr Kumar says that repeated accommodations sought on behalf of the appellant have resulted in the proceedings being delayed.

8.1 It is Mr Kumar's submission that if one more opportunity is to be granted to the appellant to cross-examine the respondent, i.e., PW-1, costs should be imposed.



9. We tend to agree with this submission of Mr Kumar.
10. Accordingly, the impugned order is set aside in order to give one more opportunity to the appellant to cross-examine the respondent, i.e., PW-1 or any other witness that the respondent would want to tender.
11. Since we are told that the matter is fixed before the Family Court on 09.04.2024, the Family Court is requested to take up the matter on that date or any other date which is proximate to the said date, with a clear mandate to proceed with the matter in accordance with the law even if the appellant's counsel is not available.
 - 11.1 Ms Singh says that she will make herself available on that date.
12. Given the fact that the proceedings have been delayed on account of the lawyer of the appellant not being available, the appellant is directed to pay costs of Rs.7,500/- to the respondent.
13. The appeal is disposed of, in the aforesaid terms. Consequently, the pending application shall stand closed.
14. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

AMIT BANSAL, J

APRIL 5, 2024/aj