

Meenakshi Vs. Sanjay

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Court : Delhi

Decided On : Sep-11-2002

Reported in : 2003(68)DRJ124

Judge : S.K. Mahajan, J.

Acts : [Limitation Act, 1963](#) - Sections 5

Appeal No. : CM 964/2001 in FAO 526/2001

Appellant : Meenakshi

Respondent : Sanjay

Advocate for Pet/Ap. : Kamal Katyan, Adv

Disposition : Application allowed

Judgement :

S.K. Mahajan, J.

1. There is a delay of 37 days in filing the appeal for the condensation of which an application was filed by the appellant. It is submitted in the application that the appellant had given instructions to her counsel to file appeal against the impugned order and apply for certified copy of the same, however, it was only on 3.10.2001 that the appellant was informed by the counsel that certified copy of the impugned

judgment and decree was not applied by the counsel. The appellant is stated to have engaged a new counsel thereafter who applied for certified copy and filed the appeal after certified copy was received. It is submitted that the delay in filing the appeal is due to the negligence of the counsel who was looking after the case of the appellant and was not on account of the negligence of the applicant. Despite service no one has appeared on behalf of the respondent nor reply has been filed. I have, therefore, no reason to disbelieve the averments made in the application. I, accordingly, allow this application and condone the delay in filing the appeal. The application stands disposed of.

FAO 526/2001

2. Issue notice to the respondent both by ordinary process as well as by registered post, returnable on 09.12.2002.

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