

Nasreen Simon Vs. Ghulam Rasool Simon

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SooperKanoon Citation : sooperkanoon.com/977846

Court : Delhi

Decided On : Jul-08-2013

Judge : S.Ravindra Bhat

Appellant : Nasreen Simon

Respondent : Ghulam Rasool Simon

Advocate for Def. : Mr. Akash Bhalla

Advocate for Pet/Ap. : Ms. Priyanka Kathuria, Mr. Mohit Goel

Judgement :

* + IN THE HIGH COURT OF DELHI AT NEW DELHI DECIDED ON:

08. h July, 2013 FAO(OS) 231/2013 NASREEN SIMON Appellant Through: Ms. Priyanka Kathuria for Mr. Mohit Goel, Advocate. versus GHULAM RASOOL SIMON Respondent Through: Mr. Akash Bhalla, Advocate. CORAM: HON'BLE MR. JUSTICE S. RAVINDRA BHAT HON'BLE MR. JUSTICE NAJMI WAZIRI % MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT) 1. Mr. Akash Bhalla, Advocate for respondent sought time stating that main counsel instructed him to appear in the matter, who is not available though he was present during the first call. On the other hand, proxy counsel for appellant Ms. Priyanka Kathuria stated that counsel for the appellant Mr. Mohit Goel is not available.

2. The Court had issued emergent notice having regard to the nature of the impugned order and it is pursuant to the notice that the respondent is represented.

3. The present appeal is directed against the order of the learned Single Judge dated 20.2.2012 whereby the respondent/defendants right to file written statement is foreclosed. The respondent is the defendant in the suit and also the daughter-in-law of the appellant. The appellant has claimed a decree for possession.

4. In support of the application for condoning the delay of 149 days and enlargement of time in filing the written statement the respondent i.e. appellant/defendant had urged that considerable time has been spent for attempting a settlement and during the period, a written statement had been filed on 15.5.2012 alongwith an application for condonation of delay, numbered IA No. 9960/2012. The impugned order notices that on 17.2.2012, the parties were referred to the Delhi High Court Mediation and Conciliation Centre for possible settlement. Perhaps the Court was prompted in doing so having regard to the relationship of the parties. Nevertheless no settlement could be arrived at as is evident from the order dated 19.8.2012. It was under these circumstances, the defendant approached the Court for seeking condonation of delay and further extension of time to file the written statement which was declined by the impugned order.

5. This Court had carefully considered the pleadings. Having regard to the peculiar circumstances of the case which include the relationship of the parties, we are of the opinion that since an attempt to settle the dispute was made the learned Single Judge should have exercised discretion and extended the time in the peculiar circumstances but of course subject to conditions. Having regard to this fact, the Court is of the opinion that the appellants request for extension of time has to be considered favourably. Accordingly, the appellant is at liberty to file the written statement within ten days from today subject to her paying the respondent Rs. 15,000/- as costs. The said costs shall be paid within four weeks from today. The appeal is allowed accordingly. S. RAVINDRA BHAT, J (JUDGE) NAJMI WAZIRI, J (JUDGE) JULY 8 2013/mv FAO(OS) 231/2013 Page 2