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

+ **MAT.APP.(F.C.) 50/2023**

JYOTI

..... Appellant

Through: Mr. Abhimanyu Lall, Mr. Aakash
Bhatt, Adv.

versus

PRADIP KUMAR

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

17.02.2023

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CM APPL. 7984/2023

1. This is an application seeking condonation of delay of six days in filing the appeal.
2. The grounds mentioned in the application are that the counsel who had been engaged by the appellant and who is also appearing before us for the appellant was unwell.
3. Learned counsel for the appellant also submits at the bar that the delay occurred on account of his illness.
4. Issue notice, returnable on 13.04.2023.

CM APPL. 7985/2023

5. Allowed, subject to all just exceptions.



MAT.APP.(F.C.) 50/2023 & CM APPL. 7983/2023

6. Appellant impugns order dated 22.11.2022 whereby an ex-parte decree of divorce has been granted on the ground of cruelty. Learned counsel for the appellant submits that the appellant was diligently defending the proceedings, however, on 23.05.2022 her counsel failed to appear when she was proceeded ex parte.

7. He submits that, thereafter, the appellant approached the Delhi Legal Services Authority and the legal aid counsel was appointed on 22.07.2022 and an application under Order IX Rule 7 CPC was filed on 31.08.2022.

8. He submits that since the same was drafted by a fresh counsel there was some typographical errors and the same was dismissed on 28.09.2022 on the ground of incorrect mentioning of date and thereafter another application under Order IX Rule 7 CPC was filed with the correct dates. However, the same has been dismissed on 02.11.2022 on the ground of delay and on the ground that the case had already been reserved for final judgment.

9. Learned counsel submits that the appellant has been duly defending the proceedings however on one date her counsel failed to appear and she has been proceeded ex-parte.

10. Learned counsel submits that as per his instructions respondent has not re-married till date.

11. Issue notice to the respondent, returnable on 13.04.2023.

12. In the meantime operation of ex-parte judgment dated



22.11.2022 shall remain stayed and consequently respondent is also restrained for contacting another marriage till the next date of hearing.

13. Order *dasti* under signature of Court Master.

SANJEEV SACHDEVA, J

VIKAS MAHAJAN, J

FEBRUARY 17, 2023/NSA