

Court No. - 29

Case :- FIRST APPEAL DEFECTIVE No. - 29 of 2025

Appellant :- Anup Singh

Respondent :- Smt. Jyoti Chandrabhan Singh

Counsel for Appellant :- Anil Kumar Chaudhary,Deepak Singh

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Donadi Ramesh,J.

Re: Civil Misc. Delay Condonation Application

Delay in filing of the appeal has been explained satisfactorily.

Consequently, the delay is condoned.

Delay condonation application is allowed.

Re: Appeal

This appeal arises out of an order passed by the Family Court, Prayagraj refusing to entertain the petition of the husband for dissolution of marriage under Section 13 of the Hindu Marriage Act, 1955, on the ground that the Court lacks territorial jurisdiction to entertain such claim. Subsequent application filed for review has also been rejected.

The Trial Court has recorded a categorical finding that marriage between the parties was not solemnized at Prayagraj and they have also not lived together lastly as a married couple at Prayagraj. In such circumstances, the Court has concluded that necessary ingredients to vest jurisdiction in the Family Court, Allahabad, is lacking.

The appellant, however, contends that after marriage between the

parties got solemnized at Pratapgarh, a reception was hosted at Prayagraj. It is also contended that the finding of the Trial Court that the parties lastly lived at New Delhi is also incorrect.

We have perused the plaint of the husband, which states that the marriage between the parties was solemnized at Pratapgarh. Mere fact that a reception party was later hosted at Prayagraj, would not be material, inasmuch as the consideration for the purposes of determining the jurisdiction of the Court clearly stands enumerated under Section 19 of the Hindu Marriage Act, 1955, which reads as under:

"19. Court to which petition shall be presented.- Every petition under this Act shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction-

(i) the marriage was solemnised, or

(ii) the respondent, at the time of the presentation of the petition, resides, or

(iii) the parties to the marriage last resided together, or

[(iiia) in case the wife is the petitioner, where she is residing on the date of presentation of the petition, or]

(iv) the petitioner is residing at the time of the presentation of the petition, in a case where the respondent is, at that time, residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive."

Clause (i) of Section 19 of the Hindu Marriage Act specifies that place of marriage between the parties would be a relevant consideration to vest jurisdiction in the Court concerned. The fact that a party was hosted later at Prayagraj, therefore, would not be relevant for the purposes of conferring jurisdiction of Family Court at Prayagraj.

It remains undisputed that the marriage between the parties was solemnized at Pratapgarh. The Trial Court has otherwise recorded

a finding that the parties lived together lastly at New Delhi. In the plaint, our attention has not been invited to any specific assertion as per which the parties after their marriage lived as a married couple lastly at Prayagraj. The evidence has been examined by the Trial Court to return a finding that the parties lastly lived together at New Delhi. The finding of the Trial Court on the aspect relating to place where the parties lastly lived together as husband and wife, is thus not shown to be erroneous or perverse in such circumstances.

We find no illegality or infirmity in the judgment of the Family Court refusing to entertain the petition on the ground of lack of territorial jurisdiction.

The appeal lacks merit and is, accordingly, dismissed. Dismissal of the appeal will not preclude the appellant from approaching the competent Court for necessary relief.

Order Date :- 17.1.2025

Noman