



2026:AHC:66132-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL DEFECTIVE No. - 92 of 2026

Chakradhar Shukla

.....Appellant(s)

Versus

Smt. Rajni Shukla @ Neeru Shukla

.....Respondent(s)

Counsel for Appellant(s)	:	Gaurav Singh, Sayujya Singh
Counsel for Respondent(s)	:	

Court No. - 2

**HON'BLE ATUL SREEDHARAN, J.
HON'BLE VIVEK SARAN, J.**

Civil Misc. Delay Condonation Application No.1 of 2026

1. Heard Ms. Aayushee Gautam holding brief of Sri Sayujya Singh, learned counsel for the applicant / appellant.
2. Pursuant to the order dated 23.02.2026 which directed the issuance of notice on the application for condonation of delay and appeal, process fee was paid by the appellant and notice was issued. Office report dated 28.03.2026 records that service of notice by ordinary process has report of the process server "लेने से इनकार किया। एक प्रति नोटिस मकान सकूनत चस्पा।", which reflects that the respondent has refused to accept notice issued by this Court and that service of notice has been completed by affixing notice at the ordinary place of residence of the respondent. Under the circumstances, the case shall now proceed ex parte against the respondent.
3. The fact that the respondent has been proceeded ex parte in these proceedings, the same notwithstanding, this Court would have to appreciate the application for condonation of delay on its own merits. Undisputedly, there is delay of 822 days in this case. The affidavit accompanying application for condonation of delay discloses that the impugned order was passed by the Principal Judge, Family Court Allahabad, on 19.08.2023 in Matrimonial Case No.507 of 2015 (Chakradhar Shukla Vs. Smt. Ranjni Shukla @ Neeru Shukla). Before the learned trial court, the appellant herein was plaintiff and the learned trial court has also proceeded ex parte against the defendant as she did not appear before the learned trial court pursuant to

service of notice as before this Court also.

4. The learned trial court appreciated evidence adduced by the appellant and on merits held that the appellant was not able to make out a case of desertion and cruelty. Desertion was not made out as the same could not have been considered as two years had not lapsed after the respondent left the society of the appellant. As regards cruelty, statements of the appellant and the witnesses produced by the appellant before the learned trial court did not convince the learned trial court that cruelty committed by the respondent, if at all, was of such nature that may warrant grant of divorce. And so the said proceedings were dismissed by the learned trial court on 19.08.2023.

5. It is the case of the appellant that he came to know about dismissal of his case only after death of his father on 20.11.2020. He has further stated in the application that the family was suffering financial crisis as the father of the appellant was sole breadwinner in the family and so he was unable to keep an eye on day-to-day proceedings before the learned trial court. It has also stated in the said application that passing of the said impugned order dated 19.08.2023 was never intimated to the appellant by his counsel handling the case before the learned trial court. But it is also relevant to mention here that there is no affidavit with the application for condonation of delay of the learned counsel that he had failed to intimate the appellant about dismissal of the case before the Trial Court.

6. It is also stated in the said application for condonation of delay that as soon as the appellant got information about the impugned order passed against him, he approached his counsel for legal advice and the counsel after perusing the impugned order directed him to challenge the said order by filing the First Appeal under Section 19 of the Act. It is however, relevant to mention here that there was no date mentioned by the applicant / appellant on which the appellant met the lawyer for advice. It is also the case of the applicant / appellant that he had approached the Copying Section of the District Court for obtaining the certified copy of the requisite documents and was informed by the staff that since the matter was dismissed and the records were consigned to the records room, it will take some time find the records.

7. In paragraph no.9, the applicant / appellant has stated that and he again approached the Copying Section and applied for Folio on 03.09.2025. He

had filed second application on 03.09.2025 for obtaining the certified copy of the impugned order but yet again he was informed by the Court's staff that they were unable to find the records. In paragraph no.10 of the said application, the applicant / appellant stated that he applied for certified copy yet again on 01.12.2025 after which he received the certified copy of the document on 15.12.2025 i.e. within two weeks of filing the second application.

8. It was on third occasion when he applied for issuance of the certified copy of the impugned order on 01.12.2025 that he got the certified copy of the document on 15.12.2025. Therefore, even if one goes by the averment made in the said application, it is clear that the application for the certified copy was never filed before 03.09.2025 before the learned trial court.

9. Having gone through the said application for condonation of delay, it appears that the appellant contacted his lawyer also the very first time only in the year 2025 to file an appeal against the order dated 19.08.2023. The reasoning given by the appellant for the said delay is the death of his father on 20.11.2020 stands falsified by record of the case which has been filed by the appellant himself. The very order sheets of 04.04.2022 and 19.04.2022 reflects that the appellant was present before the learned trial court as he has signed on the margin of the order sheet showing his presence before the learned trial court. The very order also reflects that on 04.04.2022 "Called out, petitioner present, OP absent. Heard on 4-C and 6-C, put up on 19.04.2022 for order".

10. The order sheet on page no.71 of the learned trial court shows that the last proceeding before the learned trial court before it passed final impugned order was on 04.08.2023 where the learned trial court has taken supplementary affidavit on record and kept the case for final orders on 19.08.2023 and the appellant Chankradhar Shukla has signed below, which goes to show that the appellant was very well aware of 04.08.2023 itself and that date was fixed on 19.08.2023 for final orders / judgment. All other reasons given in the application for condonation of delay stand falsified by record of the proceedings of the learned trial court which goes to reveal that the appellant was aware of the proceedings right now to the last date of 04.08.2023 and he was well aware of the order dismissing his case on 19.08.2023, on account of laxity on his part has caused delay which has not been explained adequately in this case. The legal dictum *vigilantibus non*

dormientibus jura subveniunt means that the law aids the vigilant, not the indolent, must be respected and enforced.

11. Under the circumstances, the application for condonation of delay stands dismissed. Consequently the present first appeal also stands dismissed.

March 30, 2026

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(Vivek Saran,J.) (Atul Sreedharan,J.)