



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

&

HON'BLE SMT. JUSTICE ANURADHA SHUKLA

ON THE 16th OF SEPTEMBER, 2025

FIRST APPEAL No. 1839 of 2022

SMT. RAJNI PATEL

Versus

MOHAN PATEL

.....
Appearance:

Shri Devesh Tiwari - Advocate for appellant.

Shri Pramesh Jain - Advocate for respondent.
.....

ORDER

Per. Justice Vishal Dhagat

Appellant has preferred this appeal under Section 19 of the Family Courts Act, 1984 read with Section 28 of the Hindu Marriage Act, 1955 challenging judgment and decree dated 24.06.2022 passed in RCS H.M. No.921/2019 by Principal Judge, Family Court, Jabalpur. By said judgment and decree, marriage between appellant and respondent was dissolved.

2. Learned counsel appearing for appellant, during course of arguments, submitted that respondent had performed second marriage on 28.10.2022. Judgment and decree was passed on 24.06.2022 and appeal was filed before this Court on 06.12.2022. There is delay of 130 days in filing of Appeal before this Court. Bar to remarry under Section 15 of Hindu Marriage Act, 1955 is applicable, if appeal is filed within the period of



limitation. In this case appeal is filed after delay of 130 days from the date of judgment and decree. Bar under Section 15 of Hindu Marriage Act, 1955 is not operating against respondent. Remarriage done by respondent is valid.

3. Apex Court in case of *Krishnaveni Rai Vs. Pankaj Rai & Another*, (2020) 11 SCC 253 held in Para 32 and 33 as under :

"32. The bar, if any, under Section 15 of the Hindu Marriage Act applies only if there is an appeal filed within the period of limitation, and not afterwards upon condonation of delay in filing an appeal unless of course, the decree of divorce is stayed or there is an interim order of Court, restraining the parties or any of them from remarrying during the pendency of the appeal.

33. As observed above, the appeal was infructuous for all practical purposes, from the inception, since the Appellant's ex-husband had lawfully remarried after expiry of the period of limitation for filing an appeal, there being no appeal till then."

4. In matrimonial cases where husband or wife has remarried in absence of legal hurdle of stay over decree of divorce or where Section 15 of Hindu Marriage Act, 1955 is not applicable, no purpose will be served in adjudicating appeal challenging decree of divorce. Judgment on merits in appeal will be counter productive as same will jeopardies marital civil rights of third party who solemnized marriage with one of the party to First Appeal. No fault could be found in remarriage if law does not prohibit it. In these circumstances First Appeal is infructuous from inception as held by Apex Court in case of *Krishnaveni Rai (supra)*.

5. Appeal is **dismissed** as having been rendered infructuous.

6. Appellant is at liberty to file an appropriate application for maintenance before the trial Court, if so advised.



(VISHAL DHAGAT)
JUDGE

sjk

(ANURADHA SHUKLA)
JUDGE