

**(2002) 09 DEL CK 0237**

**Delhi High Court**

**Case No:** CM 964 of 2001 in FAO 526 of 2001

Meenakshi

APPELLANT

Vs

Sanjay

RESPONDENT

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**Date of Decision:** Sept. 11, 2002

**Acts Referred:**

- Limitation Act, 1963 - Section 5

**Citation:** (2003) 68 DRJ 124

**Hon'ble Judges:** S.K. Mahajan, J

**Bench:** Single Bench

**Advocate:** Kamal Katyan, for the Appellant;

**Final Decision:** Allowed

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### **Judgement**

S.K. Mahajan, J.

There is a delay of 37 days in filing the appeal for the condensation of which an application was filed by the appellant. It is submitted in the application that the appellant had given instructions to her counsel to file appeal against the impugned order and apply for certified copy of the same, however, it was only on 3.10.2001 that the appellant was informed by the counsel that certified copy of the impugned judgment and decree was not applied by the counsel. The appellant is stated to have engaged a new counsel thereafter who applied for certified copy and filed the appeal after certified copy was received. It is submitted that the delay in filing the appeal is due to the negligence of the counsel who was looking after the case of the appellant and was not on account of the negligence of the applicant. Despite service no one has appeared on behalf of the respondent nor reply has been filed. I have, Therefore, no reason to disbelieve the averments made in the application. I, accordingly, allow this application and condone the delay in filing the appeal. The application stands disposed of.

FAO 526/2001

2. Issue notice to the respondent both by ordinary process as well as by registered post, returnable on 09.12.2002.