

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

FAMILY COURT APPEAL NO. 4 OF 2015

Sheela w/o Arvind Motewar
age 33 years, occ. service
r/o Ashirwad Nagar, Nanded
Tq. & Dist. Nanded.

.. APPELLANT

VERSUS

Arvind s/o Suryakant Motewar
age 39 years, occ. nil
r/o Sambhaji Chowk
c/o Parsewar, Cidco, Nanded
Dist. Nanded.

.. RESPONDENT

Mr. N.D. Kendre, advocate for appellant.
Mr. P.P. Uttarwar, advocate for respondent.

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**CORAM : R.M. BORDE &
P. R. BORA, JJ.
DATE : 6th JULY, 2015**

ORAL JUDGMENT : (PER P. R. BORA, J.)

1. Heard.
2. Admit. With the consent of the parties, appeal is taken up for final disposal at admission stage.
3. Taking exception to the judgment and order in HMP No. 121/2013 passed by the Principal Judge, Family Court, Nanded, appellant has preferred the present appeal. The only grievance seems to be made by the appellant in the present appeal is that the petition has been decided by the trial Court without there being any written statement filed on her behalf and without there being any opportunity for her to put forth her case.

Learned counsel for respondent has submitted that despite sufficient opportunities the present appellant chose to remain absent and, in such circumstances, there was no alternative for the trial Court except to pass ex-parte decree considering on merit the averments made in the petition.

4. Considering the fact that, the decision rendered by the trial Court is an ex-parte decision, without going into the aspect whether there was any sufficient reason for the present appellant to remain absent before the trial Court, we find it appropriate to remit back the matter to the trial Court for a fresh decision on merits so as to meet the ends of justice. Appellant and respondent shall appear before the trial Court on 23rd July, 2015. Thereafter, the appellant shall file her written statement within one month i.e. on or before 23rd August, 2015. The trial Court shall by giving due opportunity of hearing to both the parties, decide the petition expeditiously preferably within the period of four months thereafter. The appeal stands allowed in the aforesaid terms. Pending civil application, if any, does not survive and stands disposed of.

(P. R. BORA)
JUDGE

(R. M. BORDE)
JUDGE