

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FAMILY COURT APPEAL NO.5 OF 2019

WITH

FAMILY COURT APPEAL NO.18 OF 2019

(SHARAD MAHADEO SONTAKKE...VS.. MRS SAVITA SHARAD SONTAKKE)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.V.Bhide, Advocate for Appellant.

CORAM : Z.A.HAQ AND

PUSHPA V. GANEDIWALA, JJ.

DATED : SEPTEMBER 20, 2019.

Heard.

Family Court Appeal No.5 of 2019 is filed by the appellant-husband under Section 19 of the Family Courts Act against the order condoning delay to file application for setting aside *ex parte* decree passed against the respondent-wife and Family Court Appeal No.18 of 2019 challenges the order of setting aside *ex parte* decree dated 30/08/2018.

We have perused the record and considered the submissions on behalf of the appellant. It is the grievance of the appellant that inspite of the stay order of this Court at Aurangabad Bench, the Family Court, Akola decided the application for setting aside *ex parte* decree. However, the learned Advocate for the appellant could not point out to this Court that the order of the Court at Aurangabad was brought to the notice of the Family Court at Akola. Secondly, it is the grievance of the appellant that without appreciating the evidence brought on record properly, the Family Court Akola has set aside the decree passed in favour of the appellant.

A perusal of the impugned judgment would reflect that while filing petition for divorce a wrong address of the respondent was provided before the Court and the respondent was not staying on that address. The decree for divorce is passed *ex parte*, wrongly recording that notice was served on the respondent. In our considered view, an opportunity should be given to the respondent to contest the divorce petition.

We do not find any fault in the order condoning delay and setting aside *ex parte* decree passed by the Family Court. The appeals lack merits. Hence, both the appeals are **dismissed**. No costs.

JUDGE

JUDGE

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