

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

948 WRIT PETITION NO.6703 OF 2022

RAFAT ANJUM ALIAS BHURI ARMANKHAN
VERSUS
ANISH AKBAR MERCHANT

...

Advocate for Petitioner : Ms. Manjushri V. Narwade
Advocate for Respondents : Ms. Dhanani Firoza H.

...

CORAM : SANDEEP V. MARNE, J.
Dated: November 25, 2022

...

PER COURT :-

1. By this petition, petitioner assails the judgment and order dated 3.6.2022 passed by the Judge, Family Court, Jalgaon by which petition No.D-01 of 2022 filed by respondent/husband seeking custody of minor son has been allowed.

2. The petition has been decided by the Family Court, Jalgaon ex-parte due to absence of petitioner/wife. In the petition filed by her, a vague justification is given for non-appearance before the family Court stating as under :-

“2. Petitioner say and submits that, after filing of this petition Ld. Family Court issued summons to petitioner but due to some unavoidable circumstances, she could not

aaa/-

appear and contest the petition on merit. Therefore, Ld. Family Court decided the petition ex-parte against the petitioner.”

3. Ordinarily, such vague justification cannot be accepted, however, only because of the fact that age of the child is three years and that petitioner is mother, it is necessary in the interest of justice that petitioner is heard in the proceedings related to custody of child.

4. Accordingly, the order passed by the Family Court, Jalgaon on 3.6.2022 in Petition no.D-01/2022 is set aside and the petition is restored on the file of the Judge, Family Court, Jalgaon.

5. Parties to appear before the Family Court on 12.12.2022. Petitioner to file reply to the petition before the Family Court on 12.12.2022 and shall not seek any further adjournment. Petitioner shall co-operate with the Family Court, Jalgaon for expeditious disposal of the petition without seeking unnecessary adjournments. With the above directions, the writ petition is disposed off.

(SANDEEP V. MARNE, J.)

...

aaa/-