

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

WRIT PETITION NO.14862 OF 2021

PRIYANKA PRATIK PATIL
VERSUS
PRATIK SUBHASH PATIL

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Advocate for the Petitioner : Shri Pande Dipesh D.

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CORAM: SMT. BHARATI H. DANGRE, J.

DATE :- 20th January, 2022

Per Court:

1. Heard the learned counsel for the petitioner and perused the impugned order.

By the impugned order passed on 28.10.2021, the Judge, Family Court, Jalgaon has rejected the application exhibit 1 in Petition No.A-121/2019, filed by the petitioner for setting aside the order of dismissing the petition in default.

2. Pertinent to note that, on an earlier occasion i.e. on 06.10.2021 also, the petition was dismissed in default, but on an application being moved for it's restoration, it came to be restored. However, once again in absence of the petitioner and her advocate, it was dismissed in default on 28.10.2021 and the application was taken out for it's restoration on the ground that she was present outside the court hall,

but she could not hear her name being called out. It is also pleaded that her advocate was also not present on account of his professional engagement in some other court.

3. On hearing the learned counsel for the petitioner and perusal of the application and in the wake of the settled position of law that the client shall not suffer for the mistake of the lawyer, I deem it expedient to restore Petition No.A-121/2019 to the file of the Family Court, Jalgaon with a clear understanding that any single default to attend the proceedings diligently, would permit the learned Judge to dismiss the proceedings without entertaining any application for restoration. If the petitioner is desirous of prosecuting her petition, she has to be diligent and a lame excuse, which she had put forth on last two occasions, shall not come to her rescue in future. With this clear understanding, the impugned order is quashed and set aside. Petition No.A-121/2019 is restored to it's file before the Family Court at Jalgaon. The learned Judge, Family Court, Jalgaon shall make every endeavour to terminate the proceedings in Petition No.A-121/2019 within a period of six months from today. The Writ Petition is, accordingly, allowed.