

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

**WRIT PETITION NO. 4088 OF 2018**

**VASUDHA @ SAVITRI W/O. SATISH MORE  
VERSUS  
SATISH S/O. RAMCHANDRA MORE**

...  
Mr. Balasaheb N. Magar – Advocate for the petitioner  
Mr. A. D. Gade – Advocate for respondent  
...

**CORAM : SHARMILA U. DESHMUKH, J.**

**DATE : 02-03-2023**

**PER COURT :**

1. Heard both the sides.
2. The challenge in the petition is to the order dated 29.07.2017 passed by the Family Court, Latur in Petition No. MCA - 01 of 2017. The petitioner's application for condonation of delay of 1 year 8 months and 20 days in preferring an application under Order-IX, Rule-30 to set aside *ex parte* judgment and decree dated 19.04.2014 passed in HMP No. 203 of 2013 came to be rejected.
3. Learned counsel appearing for the petitioner submits that, although an appearance was filed on behalf of the wife, the wife chose not to appear in the proceedings as the compromise talks were going on between the parties.

4. Per contra, learned counsel for the respondent vehemently opposes the application. He would submit that it is highly improbable that for the reason stated in the application, the wife chose not to participate in the proceedings. He would further submit that there is no explanation tendered for the delay so caused in preferring the application. He would further submit that the decree has been passed in the year 2014 and the application which has been filed after a delay of one year 8 months, causes grave prejudice to the respondent - husband.

5. Considered the submissions of the parties.

6. It is not in dispute that the petitioner was aware of the proceedings and has filed her appearance in the said proceeding. However, it is the case of the petitioner that subsequently compromise talks were going on between the parties. In matrimonial matters, such a situation is not unusual and it appears that in order to avoid jeopardizing the chance of an amicable settlement, the petitioner - wife had chosen not to contest the proceedings.

7. In my opinion, the reason which has been put forth by the petitioner wife cannot be said to be improbable. As regards the

delay caused, petitioner wife has submitted that it was informed to her that as the matter was being settled, it was not necessary to contact her advocate and as such, even her advocate also did not inform her and whenever there used to be communication with the respondent – husband, he would inform her that the matter would be settled.

8. Upon a query by this court, it is informed by the counsel for the respondent that the respondent has not remarried. Considering that the status of the parties has not been changed, in my opinion, it would be in interest of justice, particularly considering that the proceedings are matrimonial in nature, to quash and set aside the order dated 29.07.2017 and permit the petitioner wife to contest petition on merits.

9. In light of the above, the impugned order dated 29.07.2017 is quashed and set aside.

10. Writ petition stands allowed.

( SHARMILA U. DESHMUKH, J. )