



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

966 WRIT PETITION NO. 3476 OF 2024 WITH
WRIT PETITION NO. 3479 OF 2024

Sushma Vijaykumar PatilPetitioner

VERSUS

Vijaykumar Vanji Patil & anotherRespondents

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Mr. S. B. Sonpawale, Advocate for the Petitioner.
Mr. N. N. Desale, Advocate for the Respondents.

CORAM : R. M. JOSHI, J.
DATE : 8th JANUARY, 2025.

PER COURT :

1. These Petitions take exception to the orders dated 01.02.2024 passed by Family Court in MCA Nos. 7/2023 and 8/2023 rejecting prayer for restoration of Marriage Petition Nos. A-302/2018 and C-13/2019 respectively.

2. Learned counsel for Petitioner/wife and minor children submits that there was delay of only 3 months and 10 days in filing application for restoration of these proceedings. It is his submission that in the interest of justice the Family Court ought to have

condoned delay and restored the proceedings. On instructions, he makes a statement that the Petitioners would not claim any relief for the period from the date of dismissal of the said proceedings till the date of its restoration. Statement is accepted.

3. Learned counsel for Respondents opposed both the Petitions on the ground that the conduct of the Petitioner/wife disentitles her for seeking any such relief from the Court.

4. There is no dispute about the fact that both the Petitions which are dismissed in default involve matrimonial issues. It is in the interest of the parties that any proceedings be decided on merit instead of its dismissal on technicalities. Moreover, in case of family dispute, the said dispute is required to be determined finally on merit by the competent Court. In the light of these facts, delay of 3 months and 10 days should have been condoned by the Family Court.

5. Having regard to the peculiar facts of the case and in the interest of parties, this Court finds it appropriate to set aside the impugned orders and restore the proceedings to the file of Family

Court at the stage of their dismissal. In view of this, both the Petitions stand allowed.

(R. M. JOSHI)
Judge

dyb