



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

FAMILY COURT APPEAL NO. 2 OF 2025

SWAPNIL MANOHAR PATIL
VERSUS
SNEHAL SWAPNIL PATIL

...

Mr. Jain Vishwajeet Ramesh, Advocate for Appellant

....

**CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 11/06/2025.

P. C. :

1. Leave to amend the cause title. Amendment to be carried out forthwith.
2. This appeal filed under Section 19 of the Family Court Act assails order dated 10/08/2023 passed by the learned Principal Judge, Family Court, Aurangabad in Petition No. A-670 of 2022 filed by the appellant against respondent – wife.
3. Heard learned advocate for the appellant. Respondent though served through paper publication, has not caused any appearance.

4. Appellant has filed petition under Section 13(1)(ia)(ib) of Hindu Marriage Act for dissolution of marriage against respondent wife contending that respondent has eloped with one Akshay Kulkarni with whom she had a love affair. It is the case of the appellant that presently respondent is residing at Pune, but her correct address is not known to him. He, therefore, filed an application seeking service of summons on respondent through paper publication. Instead of considering the said application, the Family Court dismissed his petition for default observing that appellant is continuously absent since last three dates and he is not taking further steps for service of summons. Therefore, appellant has completely lost his interest to proceed further with the petition.

5. It is a matter of record that appellant has filed an application seeking paper publication of notice / summons. The Family Court ought to have considered the said application and passed order on the same. There may be lapses on the part of the appellant in prosecuting the matter on three dates. But that itself is not sufficient to dismiss the petition in default. By the impugned order, the Family Court denied the fair opportunity to the appellant to prosecute his petition on merits. The Family Court ought to

have allowed the application for paper publication by imposing cost on the applicant. Since opportunity of fair trial is denied to the appellant, the impugned order cannot be sustained. Hence, following order.

ORDER

1. The Appeal is allowed.
2. The impugned order passed by the learned Principal Judge, Family Court below Exhibit-1 in Petition No. A-670 of 2022 dated 10/08/2023, thereby dismissing the matter for default, is hereby quashed and set aside.
3. Matter is restored on the file of the learned Principal Judge, Family Court, Aurangabad.
4. The application filed by the appellant for paper publication stands allowed.
5. Notice / summons may be published in local news paper of Pune.
6. The appellant to pay cost of Rs.5,000/- (Rs. Five thousand only) to the District Legal Services Authority, Aurangabad.

(SANDIPKUMAR C. MORE, J.)

(NITIN B. SURYAWANSHI, J.)