



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

969 FAMILY COURT APPEAL NO. 73 OF 2025

SHWETA AMIT PARALKAR @ SHWETA RAMESH WARADE

VERSUS

AMIT SHIRISH PARALKAR

...

Advocate for Appellant : Mr. Ade R.B.

Advocate for Respondent : Mr. Sumant S. Kulkarni

...

WITH

CIVIL APPLICATION NO. 3446 OF 2025

IN FCA/73/2025

...

CORAM : NITIN B. SURYAWANSHI AND

VAISHALI PATIL-JADHAV, JJ.

DATED : 3rd DECEMBER, 2025.

ORDER :

. By this appeal under Section 19 of the Family Courts Act, the appellant - wife challenges the judgment and decree dated 19.09.2024 passed by the Family Court, Aurangabad in Petition No.A-540/2021, thereby allowing the petition filed by the respondent-husband for dissolution of marriage.

2. It is case of the appellant-wife that though she appeared in the petition filed by the husband and filed written statement, subsequently as she could not appear due to ill-health of her son, "no cross" order was passed against her. She filed application for recalling of "no cross" order, which came to be turned down by the Family Court. This order was not challenged by her due to heavy workload in office, ill-health of her child and as her maternal aunt, who brought her up, had undergone operation. Therefore, the trial was conducted in her absence and Family Court has allowed the petition ex-

parte and dissolved the marriage.

3. Learned Advocate for the husband vehemently opposed the appeal stating that no sufficient ground is made out by the wife to set aside the *ex-parte* order. The Family Court was constrained to decide the petition *ex-parte* as wife failed to appear and cross-examine the husband and enter into witness box. He, therefore, submits that the wife has to blame herself for *ex-parte* decision in the matter. According to him, no sufficient ground is, therefore, made out by the wife to set aside the impugned judgment.

4. Heard learned Advocate for the appellant and learned Advocate for respondent at length. Perused the record.

5. Admittedly, the wife has neither conducted cross-examination of the husband nor entered the witness box to lead evidence. Therefore, fair trial is denied to her may be due to her fault, but the reasons for such non-appearance i.e. ill-health of child and operation of maternal aunt appeal to us. The wife needs to be given fair opportunity to defend the petition filed by husband. Therefore, the appeal deserves to be allowed.

6. In the result, we pass the following order :-

ORDER

(i) Family Court Appeal is allowed.

(ii) The impugned judgment and decree passed by the Family Court, Aurangabad in Petition No.A-540/2021 dated 19.09.2024 is hereby quashed and set aside.

(iii) The matter is relegated to the Family Court for decision afresh. The trial should be conducted from the stage of cross-examination of the husband. The trial be concluded within six months from the date of receipt of writ of this order.

(iv) The parties shall co-operate in expeditious disposal of the trial.

7. The Civil Application, if any, stands disposed of.

(VAISHALI PATIL-JADHAV,J.)

(NITIN B. SURYAWANSHI,J.)

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