



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FAMILY COURT APPEAL NO. 30/2023

(Madhuri w/o. Arun Gavhankar Vs. Arun s/o. Omkarappa Gavhankar)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. Sonali Saware-Gadhawe, Advocate for appellant.
Mr. S.S. Dhemgale, Advocate for respondent-sole.

CORAM: NITIN B. SURYAWANSHI AND
PRAVIN S. PATIL, JJ.

DATED : 11/02/2025

Heard.

2. This appeal filed under Section 19 of the Family Courts Act, 1984 challenges judgment and decree passed by the Family Court, Buldana in Petition No. A-46/2021.

3. Respondent/husband filed petition under Section 22 of the Special Marriage Act for restitution of conjugal rights against appellant. The matter was initially filed at District Court, Buldana and was numbered as Special Marriage Petition No. 9/2018. On establishment of Family Court, the matter was transferred to the Family Court Buldana and was renumbered as petition No.A-46/2021. Roznama before the Family Court indicates that on few dates, appellant and her Advocate were present, however in spite of grant of sufficient opportunity, Advocate for appellant failed to cross-examine the respondent and the

matter was decided without cross-examination on part of the appellant. The same is also reflected in the impugned judgment and decree.

5. The appellant should not suffer for the lapses on part of Advocate. In the interest of justice and so as to give fair opportunity to the appellant, appeal deserves to be allowed. Hence the order:-

(I) The impugned judgment and decree passed in Petition No.A-46/2021, by the Family Court, Buldana dated 10.01.2023 is hereby quashed and set aside. The Family Court, Buldana shall decide the matter afresh after giving opportunity of cross-examination to the appellant.

(II). Parties to appear before the Family Court, Buldana on 24.02.2025. The Family Court, Buldana shall decide the matter within three months from the first date of appearance of the parties.

(PRAVIN S. PATIL, J.)

(NITIN B. SURYAWANSHI, J.)