



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

FAMILY COURT APPEAL NO. 84 OF 2025

1. Mrs. Shreya W/o Saket Gupta
Aged 27 years, Occup.-Housewife,
R/o C/o Narendraji Gupta, Shanti
Nivas, Shantigram Colony, Reva Road,
Satna, Madhya Pradesh.

... APPELLANT

...VERSUS...

1. Mr. Saket S/o Mukesh Gupta
Aged 31 years, Occup.-Service,
R/o Flat No. 52, Manikarnak
Apartment, New Sneha Nagar,
Chhatrapati Square, Nagpur.

...RESPONDENT

Mrs. Bharati Kale, Advocate for the appellant.

CORAM : SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.

RESERVED ON : 10th APRIL, 2026.
PRONOUNCED ON : 08th MAY, 2026.

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

Heard. Admit. Heard finally with the consent of the learned
counsel for the parties.

2. The present appeal, filed under Section 19 of the Family Courts Act, 1955, is for setting aside the judgment and order dated 11.08.2025, passed by the Family Court, Nagpur-2, in Petition No. A-1271 of 2023, thereby dissolving the marriage solemnized between the appellant and the respondent on 09.05.2022.

3. The facts, as seen from the memo of appeal, are as under:-

a) That the appellant wife and the respondent husband are legally wedded, their marriage being solemnized on 09.05.2022 at Gondia as per Hindu rites and customs.

b) However, after a few days of commencement of matrimonial life, the appellant wife came to know that the respondent is not happy with her and is trying to avoid her company. On many occasions, the appellant asked the reasons, but the respondent ignored the appellant. Due to such behavior, the appellant wife was constrained to take shelter of her parents and shared all the harassment which she faced with the parents.

c) The appellant wife tried her best to cohabit with the respondent, but the respondent continued to avoid her. As soon as the appellant left the house of the respondent, he filed a petition before the Family Court, Nagpur, bearing Petition No. A-1271 of 2023 under Section 13(1)(i-a) of the Hindu Marriage Act, 1955, for grant of divorce. In the said petition, certain false and frivolous allegations were made.

d) In response to the notice issued by the Family Court, the appellant appeared and the matter was thereafter referred to the counsellor. However, unfortunately as the matter could not be settled amicably, it was forwarded to the Court for adjudication. In the backdrop of these facts, the appellant failed to appear in the matter and also failed to file her reply/written statement. Therefore, the Judge of the Family Court at Nagpur decided the matter by passing a judgment and decree on 11.08.2025, thereby dissolving the marriage solemnized between the appellant and the respondent on 09.05.2022. It is this judgment which is impugned in the present appeal on various grounds as mentioned in the appeal memo. On the basis of the averments in the appeal memo and the judgment of the trial Court, the following points arise for our determination.

- i) Whether the Family Court was right in proceeding without the reply of the written statements and thereby granting divorce to the respondent. - No.
- ii) Whether the judgment of the Family Court warrants interference in appellate jurisdiction. - Yes.

4. We have heard Mrs. Bharati Kale, learned counsel for the appellant. In spite of service on 17.10.2025, notice was issued in the present appeal, making it returnable on 14.11.2025. However, since the respondent could not be served, permission was granted to serve him by R.P.A.D. / speed post. But the said notice was received back unserved for want of correct and detailed address. Thereafter, by an order passed in Civil Application (O) No. 78 of 2026, permission was granted to serve the respondent by paper publication, as prayed for, and in addition to this, the appellant was permitted to serve the learned counsel appearing in the lower Court for the respondent husband. On 13.03.2026, this Court passed an order and observed that the paper publication and the service status of concern is filed by the learned counsel for the appellant and granted one more opportunity and adjourned the matter to 10.04.2026. Even on the said date, i.e., 10.04.2026, there was no

appearance and therefore, we have heard the learned counsel for the appellant.

5. The learned counsel for the appellant submits that the only grounds which has weighed with the trial Court is that the testimony of the respondent husband has gone unchallenged and uncontested. In that view of the matter, the Court has granted divorce to the respondent. She further submits that it was only due to the omission of the lawyer to intimate the appellant about the status of the case, that the reply could not be filed. It is, therefore, her submission that, as a settled principle of law, non-appearance of an advocate cannot put the litigant to disadvantage. She, therefore, prays that she may be granted an opportunity to contest the proceedings. As stated supra there is no appearance on behalf of the respondent.

6. We have considered the contentions canvassed by the learned counsel for the parties. It is a matter of record that even though the appellant appeared before the Family Court, there was no reply / written statement filed by her. It was only in these circumstances

that the appellant suffered the decree of divorce, which is impugned in the present appeal.

7. Perusal of the judgment of the Family Court would reveal that the Family Court has not considered the matter on merits, only because of omission of denial / counter in the form of a reply or written statement, the said Court has proceeded to pass a decree of divorce, thereby dissolving the marriage between the parties.

8. Having taking overall view of the matter, we are of the considered opinion that a chance needs to be given to the appellant wife to compel the matter on merits, since it was only due to the inaction of her lawyer that she could not do the same earlier. However it was also expected of the appellant to contact her lawyer for ascertaining the progress of the case. Therefore costs need to be imposed on the appellant.

9. In that view of the matter, we pass the following order.

ORDER

i) Family Court Appeal is allowed.

ii) The judgment dated 11.08.2025 passed by the Family Court, Nagpur No. 2, in Petition No. A-1271 of 2023 is quashed and set aside, subject to payment of cost of Rs. 10,000/- (Ten Thousand Rupees) by the appellant with the "Public Welfare Account" bearing Account No. 129712010001014 (IFSC Code : UBIN0812978 in the Union Bank of India, Branch High Court, Civil Lines, Nagpur, within a period of two weeks from the date of this judgment.

iii) The matter is relegated back to the Family Court Nagpur, for its fresh disposal in accordance with law, subject to payment of costs within the aforesaid period.

iv) The appellant is directed to appear before the Family Court on 08.06.2026 and abide by the further directions of the said Court.

10. The appeal is disposed of as such.

11. Decree be drawn accordingly.

(NANDESH S. DESHPANDE, J.)

(SMT. M.S. JAWALKAR, J.)

Shubham