



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF SEPTEMBER, 2024

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 4283 OF 2020 (FC)

BETWEEN:

PRAMOD PURUSHOTTAM BOHRA,
AGED ABOUT 48 YEARS,
S/O. PURUSHOTTAM BOHRA,
NO.219/1, TEMPLE ROAD,
ITI LAYOUT, NEAR SRI KRISHNA
INTERNATIONAL SCHOOL,
KATRIGUPPE, BSK 3RD STAGE,
BENGALURU - 560 085.

...APPELLANT

(BY SRI. MANJUNATH B S., ADVOCATE)

AND:

VIJAYA VYAS @ VIJAYA BOHRA,
AGED ABOUT 48 YEARS,
D/O. PRALADH VYAS,
1/19, HOUSING COMPLEX,
ICHALKARNAJI - 416 115,
MAHARASHTRA.

ALSO AT:
DEVAPPA MANER VIDYA MANDIR
(ZILLA PARISHAD PRATHMIK SCHOOL)
DATANAGAR GALLIL NO.7,
KABNUR CHANDUR ROAD,
POST KABNUR - 416 138,
KOLHAPUR DISTRICT,
MAHARASHTRA.

...RESPONDENT

(RESPONDENT IS SERVED BUT UNREPRESENTED)



THIS MFA IS FILED U/S 19(1) OF FAMILY COURTS ACT AGAINST THE JUDGMENT AND DECREE DATED 07.12.2019 PASSED IN MC NO. 5478/2018 ON THE FILE OF THE III ADDITIONAL PRL. JUDGE, FAMILY COURT, BENGALURU, DISMISSING THE PETITION FILED UNDER SECTION 13(1)(ia) AND (ib) OF THE HINDU MARRIAGE ACT.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR
and
HON'BLE MR JUSTICE UMESH M ADIGA

ORAL JUDGMENT

(PER: HON'BLE MR JUSTICE UMESH M ADIGA)

This appeal is by the petitioner in MC No.5478/2018 against the judgment and decree dated 07.12.2019 passed by the III Additional Principal Judge, Family court, Bengaluru (for short 'trial court')

2. It is the case of the appellant that he married the respondent on 23.11.2010 as per the Hindu customs and rituals at Titupathi All India Arya Vyshya Samajam Yateendra Ramanuja Kutam. After marriage, respondent came to the house of the appellant to lead marital life.



3. Prior to the marriage of the appellant with respondent, he had married one Meenakshi and from the said wedlock he had three children. The said Meenakshi died during the year 2004. This fact was informed to the respondent before marriage. Knowing fully well, the respondent agreed to marry him. After the marriage respondent found it difficult to adjust herself with the appellant and his three children. She often used to go to her native place leaving appellant and his children. The appellant requested the respondent to adjust with him and his children and lead marital life. But she did not agree and on 31.03.2012, she left the house of the appellant and started residing at Ichalkaranji, in Maharashtra State. Prior to marriage she was serving as teacher in Government School at Maharashtra State. After marriage she did not give resignation, to said post. After leaving appellant and his children, she continued to work as teacher. She deserted the appellant without any justifiable reason from March, 2012. Appellant tried his level best to bring her back and lead marital life but it



went in vain and she did not return to matrimonial house and joined the appellant.

4. The appellant lost love and affection of respondent without any reasonable cause. The purpose of marriage was also not served and respondent did not perform her matrimonial obligations since 2012. With these reasons, he prayed for granting decree of divorce.

5. In spite of service of notice, respondent did not appear before the trial court and contest the matter. Even in this appeal also, in spite of service of notice, she did not appear and contest the matter.

6. We have heard the arguments.

7. The petitioner got examined himself as PW-1 and got marked Exs.P.1. His evidence is not challenged by respondent. There are no reasons to discard them. As per evidence of PW-1 the respondent left his company on 31.03.2012 and never turned back to his house. It



appears there were no justifiable reasons for her to live separately from her husband, otherwise she would have appeared before the court and contested. As on the date of filing of the petition, she deserted appellant's company for about 6 ½ years. Even after marrying the appellant, she did not perform marital obligations. The appellant married her after death of his first wife to lead marital life and to have marital pleasure. In spite of marriage respondent did not live with him and perform marital obligation then it amounts to mental agony and cruelty. Respondent did not appear before trial court and this court and disclosed her grievances or justifiable reasons to live separately. It appears that she is not interested to continue marital life. Considering these facts it is a fit case, wherein the trial court should have granted the decree of divorce. Therefore, there are sufficient materials to grant relief of divorce.



8. The trial court dismissed the petition only on the ground that appellant did not hold any panchayath or issue notice prior to the filing of the petition for divorce. According to the Hindu Marriage Act, these procedures are not compulsory. The respondent did not appear before the trial court or this court and expressed her difficulty to lead normal marital life with the appellant. She is said to be married to the appellant knowing fully well that appellant was widower and having three children from his first wife. Therefore, the finding of the trial court is erroneous. The appellant proved that the act of the respondent amounts to cruelty and desertion without any justifiable reason. Hence, interference in the said finding is required and appellant is entitled for decree of divorce.

9. For the aforesaid discussions, we pass the following:



ORDER

The petition is ***allowed***.

The impugned judgment and decree dated 07.12.2019 in M.C.No.5478/2018 passed by the III Additional Principal Judge, Family Court, Bengaluru is set aside.

The marriage solemnized between the petitioner and respondent on 23.11.2010 at Titupathi All India Arya Vyshya Samajam Yateendra Ramanuja Kutam is ordered to be dissolved.

**Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE**

**Sd/-
(UMESH M ADIGA)
JUDGE**