



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF AUGUST, 2024

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 4093 OF 2019 (FC)

BETWEEN:

SMT. SHRUTHI. Y
WIFE OF LOKESH.H
DAUGHTER OF H.YELLAPPA
AGED ABOUT 32 YEARS,
RESIDENT OF PAKEGOWDARAPALYA
SILVEPURA POST,
HESSARGHATTA,
BENGLAURU - 560 090.

AND ALSO AT
C/O. NAGALINGAPPA,
NO.15/25, 2ND MAIN,
MARENAHALLI, VIJAYANAGAR,
BENGALURU - 560 040.

...APPELLANT

(BY SRI. MANJUNATH G KANDEKAR., ADVOCATE)

AND:

SRI. LOKESH H,
SON OF HANUMANTHAIAH,
AGED ABOUT 39 YEARS,
RESIDING AT MARUTHI KRUPA,
G.L.STREET, MALUR- 565 150
KOLAR DISTRICT.

...RESPONDENT

(SERVED AND UNREPRESENTED)



THIS MFA IS FILED U/S 19(1) OF FAMILY COURTS ACT, 1984, AGAINST THE JUDGMENT AND DECREE DATED 20.03.2019 PASSED IN MC NO.828/2018 ON THE FILE OF THE PRL. JUDGE, FAMILY COURT, BENGALURU, ALLOWING THE PETITION FILED UNDER SECTION 13(1)(ia)(ib) OF THE HINDU MARRIAGE ACT, 1955.

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 SREENIVAS HARISH KUMAR)

1. This appeal is against the judgment and decree dated 20.03.2019, passed in M.C.No.828/2018, on the file of the Principal Judge, Family Court, Bengaluru. The respondent – wife in the said case is the appellant herein.

2. The husband initiated proceedings for divorce under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955. The marriage between the parties was solemnized on 23.11.2012 at Sumangali Kalyana Mantapa, Nagarabhavi Main Road, Bengaluru. It was an arranged marriage. The parties were related and knew each other since their childhood. The allegations are that after the marriage, the



wife was behaving in a weird manner and she was not showing any interest in having intimate relationship with the husband. In the month the June-July 2013, the wife went to her parents' house during 'Ashada' and thereafter did not show any inclination to return to the matrimonial home. The father of the husband went to the house of the parents of the wife and brought her back after convincing her. Even after returning to matrimonial home, there was no change in her behavior. In the month of October 2013, she left the matrimonial home suddenly. In fact, a naming ceremony was arranged in the house of the petitioner and his family members tried to convince the respondent - wife not to leave their house because of naming ceremony being arranged, but she did not listen and left his house. The husband's father again visited her parents house to bring her back but she refused. She did not show any interest in leading matrimonial life. She also did not attend the marriage of her husband's sister held on 5th and 6th of May, 2015.

3. The wife appeared through her counsel, but did not file statement of objections. Then the husband led his



evidence by examining himself as PW-1 and marked the documents at Exs.P-1 and P-2. Respondent did not led evidence from her side. The family court being convinced with the case made out by the husband, allowed the petition for divorce. Aggrieved by the same, this appeal is filed.

4. We have heard Sri.Manjunath G. Kandekar, learned counsel for the appellant. Learned counsel for respondent has not appeared before the court.

5. It is the argument of learned counsel for the appellant that the appellant-wife is denied of an opportunity to contest the petition for divorce. The family court should not have granted divorce merely on the basis of the averments made in the petition and the evidence led by the husband as PW-1. Therefore, it is the submission of learned counsel for the appellant that the appeal is to be allowed and matter is to be remanded to the family court so that the appellant will get an opportunity to contest the petition.

6. We have perused the records. We find that the wife engaged an advocate, but failed to get statement of



objections filed and contest the case. It is not as though wife was denied of an opportunity to contest the petition for divorce. Nothing prevented her from contesting the divorce petition. She has not mentioned any reason why she did not meet her advocate to contest the case. In this view, we do not find any infirmity in the judgment of the trial Court.

7. We have perused the judgment of the family court. We find that only after being convinced that the allegations made by the husband in the petition for divorce were proved the petition came to be allowed and divorce was granted. There is no rule that if the wife or husband does not contest the divorce petition, the family court or trial court cannot allow the petition, it all depends on the facts and circumstances. Therefore, we are not inclined to allow this appeal. However, the appellant is at liberty to initiate proceedings for maintenance, if she is in need of maintenance.

8. Accordingly, we pass the following:



ORDER

- i. The appeal is ***dismissed***.
- ii The judgment dated 20.03.2019 in M.C.No.828/2018 on the file of Principal Judge, Family court, Bengaluru is confirmed giving liberty to the appellant – wife to claim maintenance.

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

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