



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF OCTOBER, 2024

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 5769 OF 2017 (FC)

Between:

Capt. Retd. V.R.Srinivas,
Aged about 45 years, S/o BNR Chandra,
Residing at No.823, 5th Cross,
9th Main, Kalyannagar, 1st Block, HRBR,
Bengaluru-560043.

- Appellant

(By Sri Suresh S. Lokre, Sr. Counsel for
Sri Shravan S. Lokre, Advocate)

And:

Smt. Padmaja S., Aged about 36 years,
W/o Capt. Retd. V.R.Srinivas,
D/o Late P.Saiprasad,
Residing at No.495, 9th Cross,
Rajmahal Vilas Extension,
Bengaluru-560080.

- Respondent

(By Sri N.Ravindranath Kamath, Sr. Counsel for
Sri H.N.Divyatej, Advocate)

This MFA is filed under section 19(1) of Family Court Act, against the judgment and decree dated 18.04.2017 passed on MC No.665/2012 on the file of the 3rd Additional Principal Judge, Family Court, Bengaluru, C/C of 3rd Additional Principal Judge, Family Court, Bengaluru, dismissing the petition filed under section 13(1)(ia) & (ib) of Hindu Marriage Act & etc.



Date on which the appeal was reserved for judgment	29.08.2024
Date on which the judgment was pronounced	22.10.2024

This appeal, pertaining to Bengaluru Bench, having been heard and reserved, coming on for pronouncement this day at Dharwad Bench, judgment was delivered therein as under:

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

CAV JUDGMENT

(PER: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR)

MC.No.665/2012 was a petition for divorce instituted by the appellant/husband under section 13(i)(ia) and (ib) of the Hindu Marriage Act for dissolution of his marriage with respondent, which was solemnized on 11.10.2000. The Family Court, Bengaluru, by its judgment dated 18.4.2017 dismissed the petition and hence this appeal by the husband.

2. For the sake of convenience and clarity it is better to refer to parties as husband and wife. They have two



children, a son and a daughter, and they are with their mother.

3. When this appeal was taken up for hearing, an attempt was made by us to ascertain the possibilities of reunion of the parties, but looking at the manner of arguments advanced at the initial stage, we noticed that reunion was not possible, and it was brought to our notice that all efforts made earlier had not fructified. Relevantly, I.A.4/2020 dated 4.12.2020 filed on behalf of wife for permanent alimony may be referred here. In the said application she claimed permanent alimony of Rs.10 crore, and in the accompanying affidavit she stated that if her husband would give permanent alimony to her and children, the plea for divorce could be allowed. The marriage therefore has irretrievably broken down. It is for this reason there is no need to discuss the grounds urged in the appeal. By determining the alimony and certain sum to be paid towards education and health of the children, this appeal may be allowed.



4. The parties were directed to furnish the particulars of their income, assets and liabilities.

5. The husband filed his affidavit and furnished documents, as per memo dated 28.5.2024. He has produced bank extracts of his account at City Bank and the pay slips. Pay slip for the month of July, 2024 shows the husband's gross monthly income as Rs. 3,64,093 and net salary as Rs.2,53,072/-, basic being Rs.1,56,136/-.

6. The wife did not give particulars, instead she kept on filing applications one after another giving details of expenses which the husband has to reimburse to her.

7. Now overall situation of the parties that be gathered from the submissions made before us is as follows:

- i). Husband is working as Security Manager, Hewlett Packard (HP) Ltd., on a monthly net salary of Rs.2,53,072/-. His father is not alive, mother may be getting family pension. He



released his interest in a house property in favour of his brother.

ii). Wife is not residing in any rented house. She is living in a house at RMV Extension, Bengaluru, which is a posh locality in Bengaluru. Though husband claims that the house belongs to her, she states that she has undivided share in it. Anyway at present she is residing there, without any liability to pay rent for the house.

iii). Vedanth, son of the parties is a student of final year, B.Tech at Indian Institute of Technology, Dhanabad. Earlier he had secured a seat for BE course at Nitte Institute of Information (NIIT) Technology; a sum of Rs.3,00,000/- was paid by the husband towards admission. But after the son secured admission at IIT, Rs.3,00,000/- was refunded by NIIT and



husband did not claim it back; it was allowed to be used by son.

iv). Daughter, Trisha, secured a seat in a veterinary college, and husband paid Rs.7,50,000/- for securing admission. It appears daughter did not confirm admission, and Rs.7,50,000/- was refunded, and subsequently this sum was adjusted towards monthly maintenance.

v). The order dated 04.12.2015 in W.P.No.20615/2015 shows that husband was directed to pay interim maintenance of Rs.45,000/- per month to the wife and children.

vi). Order sheet dated 04.06.2021 in this appeal shows that monthly maintenance was enhanced to Rs.70,000/-.



vii). Order sheet dated 27.09.2021 shows that husband himself undertook to make monthly maintenance of Rs.1,00,000/- to his wife and children and this amount has been uptodate, there is no dispute about this.

viii). In the order sheet dated 12.08.2024, it is recorded that when the daughter secured seat for BE course at Atria Institute of Technology, wife had made a payment of Rs.1,50,000/- towards admission fee and balance of Rs.2,75,000/- was directed to be paid by the husband and he made its payment.

8. For the sum to be determined towards alimony for the wife and maintenance for the children, the following two aspects cannot be ignored.

(i). The son has already become major (Date of Birth 4.10.2002), but still a student pursuing his final year B.Tech. The husband has so far



met the educational expenses of the son. The husband has been meeting the expenses of the daughter towards her education. All that the wife states is that husband has not made payment of Rs.8,35,222/- which she has spent for the sake of children.

(ii). While the wife is entitled to alimony and the children for the maintenance, the needs and liabilities of husband for himself cannot be ignored. Husband is not a ATM machine for the wife, this observation is to be made in the light of a number of applications she has made claiming reimbursement of every expenditure. Any calculation that the court makes is a guess work only, it is not possible to calculate exact figure.



9. With the above prelude the approximation of the sum to be awarded is made by adopting two modes. The present age of the husband, as is forthcoming in the affidavits filed by him, is 52 years. But he states that only two years are left for his retirement, and he has no chance of reemployment. He was a short commissioned officer in Indian Army and after retirement, he is working for HP Ltd., as a security officer. But if his present age is seen, a doubt arises in his statement that he has only 2 years to retire. The normal age of retirement in private sector is 60 years, therefore it may be stated that he may retire after eight years. Keeping this in view, first calculation is made giving break up figures on the assumption that the husband will retire after two years. Second calculation is made on the assumption that he has another eight years of service, but here break up figures are not taken; 1/4th of his income is considered. Now the calculation is as follows:



FIRST METHOD/OPTION

(If 2 years service is taken into account)

Sl. No	Particulars	Amount
1	<u>DUE TOWARDS SON</u> Final year college fee - 36,600/- Mess fee - 15,125/- Other expenses - 1,20,000/- (10,000X12) 	1,71,725/-
2	<u>DUE TOWARDS DAUGHTER</u> Three years college fee - 15,00,000/- (First year fee already paid) Other expenses - 12,00,000/- (25,000X12X4) Tuition Fees - 4,00,000/- Medical expenses - 2,40,000/- (60,000X4) Marriage expenses - 30,00,000/- 	63,40,000/-
3	<u>DUE TOWARDS WIFE</u> <u>(For alimony calculated by considering Rs.45,000/- per month)</u> 45,000x12x14 (Multiplier adopted in MVC cases)=75,60,000 	75,60,000/-
4	Other pending dues	8,35,222/-
	GRAND TOTAL	1,49,06,947/-



SECOND METHOD/OPTION

(If 8 years service is taken into account)

Sl. No	Particulars	Amount
	I year 2,53,072/-	2,53,072/-
	II year 2,65,725/- (+Hike /Increment @5 % p.a)	2,65,725/-
	II year 2,79,011 (+Hike /Increment @5 % p.a)	2,79,011
	IV year 2,92,451 (+Hike /Increment @5 % p.a)	2,92,451
	V year 3,07,598 (+Hike /Increment @5 % p.a)	3,07,598
	VI year 3,22,977 (+Hike /Increment @5 % p.a)	3,22,977
	VII year 3,39,124 (+Hike /Increment @5 % p.a)	3,39,124
	VII year 3,56,080 (+Hike /Increment @5 % p.a)	3,56,080
	By the end of 8 years of service total salary for one year will be = $3,56,080 \times 12 = 44,86,608$ $1/4^{\text{th}}$ of Rs.44,86,608/- share will be 11,21,652. $11,21,652 \times 14$ (Multiplier adopted in MVC cases) = 1,57,03,128/-	1,57,03,128/-



10. In I.A.4/2020, wife's claim for alimony is Rs.10 crore. Sri. Ravindranath Kamath, learned senior counsel appearing for advocate for wife submitted that alimony plus maintenance for children may be fixed between Rs.3 to 5 crore. Sri. Suresh Lokre, learned senior counsel for the husband submitted that having regard to the fact that a large sum has already been paid to the wife and children, husband is ready to pay Rs.50 to 60 lakhs to put an end.

11. Now in the light of calculations we have made, we have to choose between the figures Rs.1,49,06,947/- and Rs.1,57,03,128/-. Adopting a lenient view, giving a wide margin to cover all unforeseen expenses to some extent and making provision for the marriage of the daughter, we think that Rs.1,60,00,000/- can be awarded. With this discussion, now the following:

ORDER

- i. Appeal is allowed. The judgment of the Family Court in MC.No.665/2012 is reversed, the



marriage between the appellant/husband and respondent/wife is dissolved.

- ii. The appellant/husband is directed to pay a sum of Rs.1,60,00,000/- towards alimony and expenses of the children. This sum is in addition to the payments already made by the husband.
- iii. The interim maintenance ordered earlier will merge with this final figure awarded in this appeal and the respondent and her children will have no future claims against appellant.
- iv. Payment shall be made in five equal installments as scheduled below:

First installment of Rs.32,00,000/- shall be made on or before 05.01.2025;

Second installment of Rs.32,00,000/- shall be made on or before 05.07.2025;

Third installment of Rs.32,00,000/- shall be made on or before 05.01.2026;



Fourth installment of Rs.32,00,000/- shall be made on or before 05.07.2026;

Fifth installment of Rs.32,00,000/- shall be made on or before 05.01.2027;

- v. Till payment of first installment, the husband is directed to continue to make payment of Rs.1,00,000/- per month to the wife and once first installment is paid, he can stop making payment every month.
- vi. All payments shall be made through bank only.
- vii. All pending applications do not survive for consideration and they stand disposed of.

Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE

Sd/-
(UMESH M ADIGA)
JUDGE

SD/bvv
List No.: 19 Sl No.: 3