



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 29483 OF 2023 (GM-FC)

BETWEEN:

SMT. VIDYAVATHI .A
W/O G. SHIVARAJ,
AGED ABOUT 37 YEARS,
R/O SINGAHALLI VILLAGE,
JALA HOBLI,
YALAHANKA TALUK,
BANGALORE URBAN DISTRICT-562129

...PETITIONER

(BY SRI. SUBRAMANI H V., ADVOCATE)

AND:

G. SHIVARAJ
S/O GUNDAPPA,
AGED ABOUT 38 YEARS,
R/AT NO.733, PETECHAMANAHALLI,
KOLAR TOWN-563101

...RESPONDENT

(SERVICE H/S VIDE ORDER DATED 29.11.2024)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DTD 26.10.23 PASSED BY THE PRL. JUDGE FAMILY COURT AT KOLAR ON IA NO. 4 IN M.C.NO.160/22 ANNEXURE-E IN REJECTING THE MONTHLY MAINTENANCE AND PASS THE APPROPRIATE ORDER IN GRANTING THE MONTHLY MAINTENANCE AS PRAYED IN THE IA NO. 4 IN FAVOUR OF PETITIONER.

Digitally signed
by B VEENA
KUMARI
Location: HIGH
COURT OF
KARNATAKA



THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE ASHOK S.KINAGI

ORAL ORDER

This writ petition is filed challenging the order on I.A.No.4 dated 26.10.2023 passed in M.C.No.160/2022 by the Principal Judge, Family Court, Kolar.

2. Brief facts giving rise to the filing of this writ petition are as under:

The respondent filed a petition for dissolution of marriage. The petitioner filed a statement of objections. The petitioner filed an application under Section 24 of The Hindu Marriage Act seeking an interim maintenance. The respondent opposed the application by filing objections. The trial Court after hearing the learned counsel for the parties, allowed the application in part and declined to grant interim maintenance and granted litigation expenses of Rs.25,000/-. The petitioner aggrieved by the dismissal of an application for granting an order of interim maintenance, filed this writ petition.



3. Heard the learned counsel for the petitioner.

4. Learned counsel for the petitioner submits that, the petitioner has no source of income to maintain herself. Hence, respondent has abandoned the petitioner and has not made any arrangement for maintenance to the petitioner. Hence, he submits that Family Court committed an error in rejecting the application for grant of interim maintenance. Hence, on these grounds he prays to allow the writ petition.

5. Perused the records and considered the submissions of the learned counsel for the petitioner.

6. There is no dispute regarding the relationship between the petitioner and respondent as husband and wife, and their marriage was performed on 01.09.2022 as per the custom prevailing in their community. The petitioner and respondent are residing separately. The respondent filed a petition for dissolution of marriage. Petitioner filed a statement of objections. The petitioner



filed an application under Section 24 of The Hindu Marriage Act seeking interim maintenance. The said application was opposed by the respondent by filing objections. The petitioner has contended that the respondent owns agricultural lands, in support of the said contention, the petitioner has not produced any records. The respondent has taken a substantial contention in the objection to I.A.No.4 that the petitioner is working as Kannada Lecturer at Nagavara and further, in order to establish that she is not working as a Lecturer, the petitioner has not filed an affidavit declaring assets and liabilities, which is mandatory as per the law laid down by the Hon'ble Apex Court in the case of **Rajnesh Vs. Neha** reported in **(2021) 2 SCC 324**. The trial Court, drawing an adverse inference against the petitioner, has rejected the application filed under Section 24 of The Hindu Marriage Act.

7. When the petitioner filed an application under Section 24 of The Hindu Marriage Act, burden is on the



petitioner to establish that the petitioner is not gainfully employed. In the instant case, the petitioner has not produced any records. On the contrary, the petitioner has also not disclosed her education qualification and occupation and the assets and liabilities. The trial Court, considering the material on record, was justified in rejecting the application.

8. Further, the learned counsel for the petitioner submits that the trial Court has posted the matter for judgment on 07.01.2025. As the M.C.No.160/2020 posted for judgment, in view of the same, I do not find any ground to interfere with the impugned judgment.

9. Accordingly, I proceed to pass the following:

ORDER

The Writ Petition is dismissed.

Sd/-
(ASHOK S.KINAGI)
JUDGE

BVK