



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 19TH DAY OF NOVEMBER, 2025
PRESENT
THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.
MISCELLANEOUS FIRST APPEAL NO.100242 OF 2025 (FC)

BETWEEN:

SMT. SUSHILA W/O. DNYANESHWAR CHOURI
AGE. 40 YEARS, OCC. ENGINEER,
R/O. DEEPAK R. PAI,
SHREE MAHALASA KRUPA,
WATER TANK, SHIVAGIRI,
UNAKAL, TQ. HUBBALLI,
DIST. DHARWAD-580031

...APPELLANT

(BY SRI SADIQ N. GOODWALA, ADVOCATE.)

AND:

SHRI DNYANESHWAR S/O. PARASHURAM CHOURI
AGE. 41 YEARS, OCC. ASSISTANT PROFESSOR,
R/O. DEEPAK R. PAI, SHREE MAHALASA KRUPA,
WATER TANK, SHIVAGIRI, UNAKAL, TQ. HUBBALLI,
DIST. DHARWAD-580031,
PERMANENT R/O. PADALWADI,
PSIT HALSAL, KHANAPUR, DIST. BELAGAVI.

...RESPONDENT

(BY SRI R.H. ANGADI, ADVOCATE.)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER
SECTION 19(1) OF THE FAMILY COURTS ACT, 1984, PRAYING TO
SET ASIDE THE JUDGMENT DATED 12.06.2024, PASSED BY THE
LEARNED PRINCIPAL JUDGE, FAMILY COURT, BELAGAVI, IN



M.C.NO.79/2023, BY ALLOWING THE APPEAL, IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.

ORAL JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

The appellant-wife has filed this appeal under Section 19(1) of the Family Court Act, challenging the judgment and decree passed in M.C.No.79/2023, dated 12.06.2024, on the file of Principal Judge, Family Court, Belagavi.

2. Parties would be referred with their ranks, as they were before the trial Court, for the sake of convenience and clarity.

3. The husband-petitioner has filed the petition under Section 13(1)(ia) of the Hindu Marriage Act, praying for dissolution of his marriage with respondent-wife solemnized on 27.04.2009 at Sukha Shanti Marriage Hall, Belagavi.



4. The case of petitioner-husband in brief before trial Court is that, after the marriage, respondent-wife has given birth to two children, who are now aged about 09 years and 03 years, respectively; respondent was always abusing the petitioner that he came from rural background and is not as per her status; he tried to adjust with the respondent-wife with the fond hope that she would improve her behaviour. The petitioner was working as a Lecturer at Gadag and respondent was working as Assistant Manager in Kirloskar Company Private Limited, Hubballi. Now petitioner is working as Assistant Professor in G.K.Law College, Hubballi and respondent is working as Manager in BEML, Bengaluru. He prayed for dissolution of marriage on the ground of cruelty alone.

5. The wife after service of notice of petition has not contested the petition and thus, she was placed *exparte*.

6. Upon verifying only the affidavit evidence of the petitioner and examining only some documents produced by



the husband-petitioner, the learned trial Judge has decreed the petition and granted the decree of divorce on the ground of cruelty.

7. Aggrieved by the same, wife has preferred the present appeal.

8. Learned counsel for appellant Sri Sadiq N. Goodwala, would submit that notice of the petition was not at all served upon the appellant and her husband had taken her signature on the pretext of reporting settlement. She came to know about the decree of divorce only when second wedding ceremony was organized for the husband. Learned counsel for appellant would submit that still, husband and wife are residing together under the same roof. She has got good ground to contest the petition. Hence, prayed for allowing the appeal by setting aside the judgment and decree passed in M.C.No.79/2023, dated 12.06.2024 and to remand the matter to trial court.



9. Learned counsel for respondent Sri R.H.Angadi, would submit that respondent knowing fully well about filing of the petition has intentionally not contested the petition and hence, prayed for dismissal of the appeal.

10. Having heard the arguments of both sides and verifying the records, the points that would arise for our consideration are:

- i) Whether the judgment and decree passed by the trial Court granting decree of divorce is to be interfered with?
- ii) Whether remand of the matter to trial Court for fresh disposal is required?

11. Our finding on these points is in the 'affirmative', for the following reasons:

12. It is an admitted fact that marriage of appellant and respondent was solemnized on 27.04.2009 in Bellagavi and after the marriage, they got two children.



13. It is to be noted here that, in the appeal memo cause title, the address of appellant and respondent is shown as one and the same. For the same address, notice was served upon the respondent in this appeal and he appeared through his counsel.

14. Learned trial Judge only believing the statement of the petitioner-husband has decreed the petition and granted the decree of divorce. The documents are only pertaining to marriage of both parties, birth certificate of their children. Further, a pen drive and e-mail messages are also produced. However, to contradict those documents, the appellant has not contested the petition on the ground that her husband misguided her and took her signatures to some papers on the pretext of reporting settlement.

15. When the parties are having two children and are residing under the same roof, if decree of divorce is granted casually; that would affect the family system itself. It will



have serious repercussions on the family of both husband, wife and the children; children would suffer a lot.

16. As discussed above, appellant was kept in dark and *exparte* decree of divorce was taken. Learned counsel for appellant Sri Sadiq N. Goodwala, would assure that, if the matter is remanded to trial Court, within 30 days of such remand, the appellant would file objection statement and would co-operate for early disposal.

17. Considering the aforesaid facts and the submission of both sides; and taking note of the fact that judgment under appeal is *ex-parte* and appellant had no opportunity to contest, we are of the considered opinion that decree of divorce granted by the trial Court is to be set aside and matter needs to be remanded back to trial Court for fresh disposal by giving suitable opportunity to the appellant to put forth her defence.

18. For the above reasons, we proceed to pass the following:



ORDER

- i) The appeal is allowed.
- ii) Judgment and decree passed in M.C.No.79/2023 dated 12.06.2024, on the file of Principal Judge, Family Court, Belagavi, is set aside.
- iii) The matter is remanded back to trial Court for fresh disposal, in accordance with law.
- iv) Both parties are hereby directed to appear before trial Court on 17.12.2025 at 11.00 a.m. without Court notice. After such appearance, within 30 days, the appellant/wife is directed to file objection statement.
- v) The learned trial judge is hereby directed to dispose of the matter within six months from 17.12.2025.



vi) Both parties are hereby directed to co-operate with the Court for early disposal of the petition.

vii) No order as to costs.

**Sd/-
(S G PANDIT)
JUDGE**

**Sd/-
(GEETHA K.B.)
JUDGE**

MRK
CT-CMU
LIST NO.: 1 SL NO.: 12