



IN THE HIGH COURT OF KARNATAKA,AT DHARWAD

DATED THIS THE 13TH 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. 102616 OF 2025 (MC)

BETWEEN:

SMT. KAVITA W/O. CHANDRU SOMANAHALLI
AGE: 36 YEARS, OCC: BUSINESS,
R/O. GUDAGATTI, TQ. RATTIHALLI,
DIST. HAVERI-581116,
CURRENTLY RESIDIDNG AT HARISH BUILDING,
GOLLARAHATTI, BENGALURU-560030.

...APPELLANT

(BY SRI. HARSHAWARDHAN M. PATIL,ADVOCATE)

AND:

SRI CHANDRU S/O. SUBHASAPPA SOMANAHALLI
AGE: 38 YEARS, OCC: PRIVATE EMPLOYMENT
R/O. GUNDAGATTI, TQ. RATTIHALLI,
DIST. HAVERI-581116.

...RESPONDENT

THIS MFA FILED U/S.28(1) OF THE HINDU MARRIAGE ACT,
PRAYING TO SET ASIDE THE JUDGMENT AND DECREE PASSED
BY SENIOR CIVIL JUDGE AND JMFC HIREKERUR PASSED IN MC
NO.10/2022 DATED 31.05.2023 BY DISSOLVING THE MARRIAGE
SOLEMNIZED BETWEEN APPELLANT AND RESPONDENT DATED
12.05.2014 AT RATTIHALLI VILLAGE 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.)

This is the appeal filed under Sec. 28(1) of the Hindu Marriage Act, 1955 praying for setting aside the judgment and decree passed in MC No.10/2022 dated 31.05.2023 on the file of Senior Civil Judge and JMFC, and also praying for dissolution of marriage of appellant with respondent solemnized on 12.05.2014 at Rattihalli.

2. For the sake of convenience and clarity, the parties will be referred with their ranks, as they were before the Trial Court.

3. Petitioner has filed the petition before trial Court praying for dissolution of her marriage with respondent solemnized on 12.05.2014 in the house of respondent-bride



at Gundagatti village, Rattihalli taluk under Sec.13(ia)&(iii) of the Hindu Marriage Act.

4. The case of petitioner-wife before the trial Court in a nutshell is that, at the time of marriage 35 gram gold, Rs.40,000 cash, clothes, utensils, etc. were given as *varopachara* to respondent. After the marriage, respondent took petitioner to his house and they lived as husband and wife for 2 years in Gundagatti village and then he has taken her to Bengaluru, wherein they led marital life for 4 years. Afterwards, respondent started treating petitioner with cruelty by abusing her, assaulting her, quarreling with her without any reason and was demanding her to bring dowry from her parental house and thereby treated her with cruelty both physically and mentally. Respondent was drinking alcohol every day and was harassing the petitioner and was not bringing basic needs to the house and was telling her that she has not given birth to any child and was insulting her and was also locking her in a room in the



house. Even then petitioner tolerated all his ill acts with the fond hope that he might mend his attitude. In that regard, several panchayats were convened. He was always suspecting petitioner and was comparing her with others and pin-pricking her. Respondent ousted the petitioner from his house and hence, petitioner started residing with her brother at Hirekeroor. Even then respondent never came to her house and took her back to his house. The respondent has given false information that his parents are having 4 acres lands. But they do not possess any land. He is only working in a private factory in Bengaluru and getting salary of ₹.20,000/-. During November 2019, the respondent ousted the petitioner from his house. Since 14.08.2020, both petitioner and respondent are residing separately. Hence, prayed for allowing the petition.

5. After service of notice, respondent appeared through his counsel but did not file his objection statement. On behalf of petitioner, she was examined as P.W.1 and got



marked her marriage card and Adhar card as per Ex.P.1 and P.2 and closed her side before trial Court.

6. After recording evidence and hearing arguments of learned counsel for petitioner, the learned trial Judge dismissed the petition on the ground that petitioner failed to prove any of the ingredients for divorce.

7. After dismissal of said petition, the appellant has filed present appeal belatedly after 629 days.

8. Heard learned counsel for appellant Sri Harshawardhan M. Patil for admission.

9. Learned counsel Sri Harshawardhan M. Patil would submit that the petitioner-appellant has established that she was treated with cruelty by respondent both physically and mentally by producing her oral evidence which is not rebutted by the respondent. Even then the trial Court has dismissed her petition. He further would submit that because petitioner is residing in Bengaluru, she could not contact her counsel immediately to file the appeal.



Hence, there is delay in preferring the appeal. Hence, prayed for allowing the appeal.

10. Having heard the learned counsel for the appellant and on perusal of the appeal papers, the following points would arise for our consideration in this appeal:

“i) Whether the appellant-petitioner establishes that she was prevented from sufficient cause in not preferring the appeal within the prescribed period of limitation?

ii) Whether appellant-petitioner is entitled for decree of divorce as alleged in the petition? ”

11. Our finding on the above points is in “negative” for the following reasons:-

12. POINT No.1: This appeal is filed on 03.06.2025 challenging the judgment and decree passed on 31.05.2023. Appellant has applied for certificate copy on 06.06.2023 and obtained it on 20.06.2023; within 30 days from the date of judgment by excluding the period spent for



obtaining certificate copy, the appeal ought to have been filed. However, there is an inordinate delay of about 2 years in preferring this appeal. The only reason assigned for such delay in preferring the appeal is that petitioner was residing in Bengaluru with her brother and her advocate told her not to contact her and only recently she came to know about the judgment and hence, there is delay in preferring the appeal and she had to make some necessary arrangements to come to Dharwad to prefer the appeal. Hence, prayed for allowing IA No. 1/2025.

13. As stated above, immediately, after passing the judgment, appellant has taken its certified copy and slept over it for about 2 years and then filed the present appeal. The reason assigned by her is not admissible in law. The law always helps the person who is diligent and not to the person who slept over his/her rights for a long time. Hence, we are of the considered opinion that appellant failed to establish sufficient cause for condoning the delay in



preferring the appeal. Accordingly, point No.1 is answered in "negative".

14. POINT No.2: Appellant contended that she was treated with cruelty by her husband, i.e. he was abusing her, assaulting her, making quarrel with her and even after making several panchayats, he has not changed his attitude and he was abusing her that she has not given birth to any child. She further stated that since 14.08.2020, they are residing separately. However, she has filed the petition before trial Court on 05.03.2022. Even as per the recitals in the petition, there is no continuous desertion of 2 years as on the date of filing the petition. Hence, petitioner failed to establish the ground of desertion.

15. As far as ground of cruelty is concerned, petitioner has not made any efforts to examine any independent witness and has not produced any documentary evidence to show that she or her family members have lodged any complaint against the respondent or any legal action has been taken by her



against respondent to prove the physical or mental cruelty against the respondent. She has not examined at least one of the panchayatdars who have convened several panchayats as per her own version.

16. Considering all these aspects, rightly learned trial Judge dismissed the petition. Hence, we find no reason to interfere with the above finding. Accordingly, point No.2 is answered in negative.

17. In view of findings on point Nos.1 and 2, we proceed to pass the following order:-

IA No.1/2025 filed U/S.5 of the Limitation Act is dismissed.

Appeal filed under Section 28(1) of the Hindu Marriage Act is dismissed by confirming the judgment passed by trial Court.

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

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