



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 19TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

CIVIL PETITION NO. 100187 OF 2025

BETWEEN:

SMT. YASMIN
W/O. RAJABAKASH BADA KAPPANAVAR,
AGE: 36 YEARS, OCC. HOUSEWIFE,
R/AT. PRAGATI COLONY,
2ND CROSS, VIDYA NAGAR,
HUBBALLI-580020.

...PETITIONER

(BY SRI. GOURISHANKAR H MOT, ADVOCATE)

AND:

SHRI RAJABAKASH
S/O. MOULA SAB BADA KAPPANAVAR,
AGE: 40 YEARS,
OCC. GOVT. SCHOOL TEACHER,
R/AT. KURUBARA-MALLUR,
TALUK: SAVANUR,
DIST. HAVERI-581118

...RESPONDENT

(BY SRI. SADIK KANVI, ADVOCATE)

THIS CIVIL PETITION IS FILED UNDER SECTION 24 OF CPC, PRAYING TO TRANSFER THE O.S.NO.355/2025 AS PENDING BEFORE THE HONBLE COURT OF CIVIL JUDGE AND JMFC AT SAVANUR TO THE HONBLE PRINCIPAL FAMILY COURT AT HUBBALLI AND DIRECT TO DISPOSE OF THE CASE ON MERITS IN ACCORDANCE WITH LAW, IN THE INTEREST OF JUSTICE AND EQUITY.

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



ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE C M JOSHI)

Heard learned counsel appearing for the petitioner and respondent.

2. The petitioner has filed this petition under Section 24 of the Code of Civil Procedure (for short, 'CPC') seeking transfer of O.S.No.355/2025 pending on the file of Civil Judge and JMFC, Savanur to the Court of the Principal Family Court, Hubballi for disposal in accordance with law.

3. The case of the petitioner is that the petitioner was married to the respondent in the year 2013 at Mattikatti village of Kundagol Taluk as per the customs of the Mohammedan law and out of their wedlock, there are two children. Then the dispute arose between the petitioner and the respondent and the petitioner filed a petition against the respondent under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') before the Principal Family Court, Hubballi in Crl.Misc.No.185/2025. Subsequently, the respondent has filed a suit in O.S.No.355/2025 seeking restitution of conjugal rights



and mandatory injunction at Civil Judge Court, Savanur. It is contented that it is difficult for her to visit Savanur whenever the case is listed and therefore, she has sought for transfer of the O.S.No.355/2005 to the Family Court at Hubballi.

4. The petition is opposed by the respondent contending that the petitioner is in fact staying at Mattikatti but not at Hubballi and her deposition before the Family Court, Hubballi shows that she is falsely claiming that she is residing at her brother's house at Hubballi. Therefore, he submits that the petition deserves to be dismissed.

5. On a careful perusal of the records, it may be seen that the petitioner and the respondent are governed by the Mohammedan law and therefore, the petitioner having been left with nothing for her maintenance, filed a petition under Section 144 of the BNSS at Family Court, Hubballi. Evidently, the respondent has filed an original suit for restitution of conjugal rights and mandatory injunction.

6. It is pertinent to note that admittedly the petitioner is having two children and he is looking after the children also. It is



not the case of the respondent that he is paying any maintenance for the children. In that view of the matter, the grievance of the petitioner that it is very difficult for her to attend the Court at Savanur appears to be fair and proper.

7. The judgment of this Court in the case of **Smt. M. V. Rekha Vs. Sri Sathya @ Suraj**¹ at Paragraph No.15 has held as hereunder:

"The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that ends of justice demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of either of the parties, the social strata of the spouses and behavioural pattern, their standard of life antecedent to marriage and subsequent thereon and the circumstances of either of the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Generally, it is the wife's convenience which must be looked at while

¹ ILR 2010 KAR 5407



considering transfer. Further, when two proceedings in different Courts which raise common question of fact and law and when the decisions are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions (See Smt.NandaKishori v. S.B.Shiva Prakash AIR 1993 Kar 87, Sumita Singh v. Kumar Sanjay and Anr. AIR 2002 SC 396 and Smt.Swarna Gouri v. Sri Vinayak Pujar ILR 2007 Kar 4561)."

(emphasis supplied)

8. In that view of the matter, it would be proper to transfer the O.S.No.355/2025 to the Family Court, Hubballi, where the petition filed by the petitioner is pending. Hence the following:

ORDER

- i. The petition is **allowed**.
- ii. The O.S.No.355/2025 pending on the file of Civil Judge and JMFC, Savanur is hereby withdrawn and transferred to the Principal Judge, Family Court, Hubballi to consider



NC: 2025:KHC-D:15885
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along with Criminal Miscellaneous

No.185/2025 in accordance with law.

iii. Intimate both the Courts accordingly.

SD/-
(C M JOSHI)
JUDGE

RKM
CT:PA
List No.: 1 SI No.: 31