



**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 10TH DAY OF DECEMBER, 2025
PRESENT**

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

MISCELLANEOUS FIRST APPEAL NO.104865 OF 2025 (MC)

BETWEEN:

SHRI NAGARADDI
S/O. SUBHASH MARIGOUDRA,
AGED 32 YEARS, OCC. DOCTOR,
R/O. BELAVANKI, TQ. RON,
DISTRICT GADAG.
AND ALSO RESIDING AT
SRI RAGHAVENDRA CLINIC,
POLICE HEAD QUARTERS,
KEMPAGOU DA NAGAR,
BENGALURU-560091.

...APPELLANT

(BY SRI GIRISH YADAWAD, ADVOCATE.)

AND:

SMT. PRATIMA
W/O. NAGARADDI MARIGOUDRA,
AGED ABOUT 30 YEARS,
OCC. HOUSEHOLD WORK,
R/O. BELAVANKI, RON TALUK,
GADAG DISTRICT.
PRESENTLY RESIDING AT
KALAMESHWAR NAGAR,
KUNCHANUR ROAD,
JAMKHANDI TALUK,
BAGALKOT DISTRICT.

...RESPONDENT

(BY SRI PRAKASH N. HOSAMANI, ADVOCATE.)



THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 28(1) OF THE HINDU MARRIAGE ACT, 1955, PRAYING TO SET ASIDE THE JUDGMENT AND DECREE PASSED BY THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE AND JMFC, JAMKHANDI, ON 27.09.2025, IN M.C.NO.51/2024.

THIS APPEAL COMING ON FOR ADMISSION 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/husband has filed this appeal under section 28(1) of the Hindu Marriage Act, 1955, challenging the Judgment and Decree passed in M.C.No.51/2024, dated 27.09.2025, on the file of Principal Senior Civil Judge and JMFC, Jamakhandi, under Section 9 of the Hindu Marriage Act, 1955.

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



3. The petitioner/wife has filed petition under Section 9 of the Hindu Marriage Act, 1955, praying for restitution of conjugal rights. After contest, said petition was allowed on 27.09.2025. Aggrieved by the same, the appellant/husband has filed the present appeal. His contention is that, the husband has filed divorce petition initially before the Senior Civil Judge, Ron and then as per the application filed by the wife in C.P.No.100082/2024, got transferred the said divorce petition from the Court of Ron to the Court of Senior Civil Judge and JMFC, Jamakhandi and the said order was passed on 01.09.2025. But without clubbing the said petition with present petition, the trial court has passed the orders only in present petition, which resulted in miscarriage of justice.

4. Learned counsel for respondent Sri Prakash N. Hosamani, would submit that after filing the divorce petition by husband, there was reconciliation between the parties and both were residing together, at that time petitioner/wife became pregnant and then she gave birth to a child. After



she gave birth to a child, the husband has not come back and because of it, the wife has filed a petition for restitution of conjugal rights. Hence, considering these aspects, the learned trial Judge has allowed the petition. However, he also fairly conceded about filing of C.P. before this Court and obtaining an order of transfer of divorce petition to the Court of Jamakhandi. However, learned counsel would submit that the said transfer was not brought to the notice of learned trial Judge at the time of passing the judgment in M.C.No.51/2024.

5. Having heard the arguments of learned counsels appearing for both the sides and verifying the appeal papers, the only point that arises for consideration is, 'whether the trial of both M.C.No.51/2024 filed by the wife and another M.C.No.65/2022 filed by husband before the Court at Ron, are to be tried together?'

6. Our finding on the above point is in the affirmative, for the following:



REASONS

7. The admitted facts of the case are that, petitioner and respondent are wife and husband and their marriage was solemnized as per Hindu customs and rites, on 10.12.2020 at Basaveshwara Community Hall, Nargund, in the presence of elders. After the marriage, the wife has given birth to a child. Her husband has filed divorce petition in M.C.No.65/2022 before Senior Civil Judge Court, Ron, which is now transferred to Jamakhandi Court, as per the order dated 01.09.2025 passed in C.P.No.100082/2024. It appears that, before receipt of the said order of transfer, the above said petition for restitution of conjugal rights was allowed on 27.09.2025 by the learned Senior Civil Judge, Jamakhandi, without verifying the factum of divorce petition filed earlier by the husband.

8. When husband and wife have filed two different petitions under two different provisions of law, i.e., for divorce and for restitution of conjugal rights respectively,



then both petitions should be tried together to come to a proper conclusion. However, that is not being done in the present case. Hence, we are of the considered opinion that by setting aside this judgment and decree if the matter is remanded to trial Court to decide both the petitions together, that would meet the ends of justice.

9. The respondent contended that she is not having any avocation. Considering it, the husband is to be directed to pay reasonable litigation expenses to the wife to contest the petitions. Hence, we proceed to pass the following:

ORDER

i) The appeal filed under Section 28(1) of the Hindu Marriage Act, 1955 is allowed.

ii) The judgment and decree dated 27.09.2025, passed in M.C.No.51/2024, by the Principal Senior Civil Judge and JMFC, Jamakhandi, is set aside and the matter is remanded back to the trial Court for fresh disposal along



with M.C.No.65/2022 filed before Senior Civil Judge Court, Ron, now transferred to Senior Civil Judge Court, Jamakhandi, and to pass appropriate order.

iii) The husband/appellant is hereby directed to pay litigation expenses of ₹50,000/- to the wife for prosecuting both petitions before the trial Court.

iv) Both parties shall appear before trial Court on 28.01.2026 without awaiting for Court notice and to co-operate for early disposal of the case.

v) The trial Court is hereby directed to give opportunity to both sides to put forth their case and to dispose both the cases afresh as expeditiously as possible.

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

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