



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JANUARY, 2025

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR JUSTICE K. V. ARAVIND

MISCELLANEOUS FIRST APPEAL NO. 7489 OF 2022 (MC)

Between:

Sri Gajanana S.A.,
S/o Sudheer
Aged about 39 years,
R/o No.54, Gangadhareshwara Temple
Street, Kote, Malavalli Town,
Mandya District-571430.

...Appellant

(By Sri Panini A.H., Advocate)

And:

Smt. M.Sneha
D/o Sri Manjunath
Aged about 30 years,
R/o C/o Krishna E.,
Near Water Purifier Center,
Saligrama, Ballur Road (Bore)
Saligrama K.R.Nagara Taluk,
Mysuru District-571604.

...Respondent

(By Sri Rohan Srinivasan, Advocate for
Smt. G.K.Bhavana, Advocate)

This MFA filed under Section 28(1) of Hindu Marriage Act, against the judgment and decree dated 23.06.2022 passed in MC No.39/2018 on the file of the Senior Civil Judge, JMFC, Malavalli, allowing the petition filed u/s.13(1)(A)(II) of the Hindu Marriage Act.

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by VEERENDRA
KUMAR K M
Location: HIGH
COURT OF
KARNATAKA



This MFA, coming on for hearing, this day, judgment was delivered therein as under:

CORAM: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR
and
HON'BLE MR JUSTICE K. V. ARAVIND

ORAL JUDGMENT

(PER: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR)

This appeal is against the judgment dated 23.6.2022 in M.C.39/2018 on the file of Senior Civil Judge, Malavalli, so far it relates to directing the appellant to pay permanent alimony of Rs.6,00,000/- to the respondent and maintenance of Rs.2,500/- per month to his son till he attains majority.

2. Heard Sri Panini A.H, learned counsel for the appellant and Sri Rohan Srinivasan, learned counsel for the respondent.

3. The appellant married the respondent on 12.8.2012. On the allegation that the respondent deserted the appellant, the latter initiated proceeding for divorce in the Court of Senior Civil Judge, Malavalli, under



Section 13(1)(A)(II) of the Hindu Marriage Act. The court after holding an enquiry granted a decree of divorce and dissolved the marriage between the appellant and the respondent. While granting a decree of divorce, the court directed the appellant to pay alimony of Rs.6,00,000/- to the respondent and maintenance of Rs.2,500/- per month to his son till he attains majority.

4. It is the submission of Sri Panini that the court has erred in fixing the sum of Rs.6,00,000/- towards alimony for the respondent without ascertaining the financial capacity of the appellant. Referring to para 26 of the impugned judgment, he would argue that the court should have directed the parties to submit the details of income and liabilities. In the absence of materials it was not proper to direct the appellant to pay a sum of Rs.6,00,000/- towards alimony. He also submits that the respondent is a earning woman and therefore there was no need to award Rs.6,00,000/- towards alimony.



5. On the other hand, Sri Rohan Srinivasan submits that as per the details furnished by the appellant, his monthly income was Rs.9,600/- in the month of February 2023. Though there was no enquiry, the sum fixed by the trial court appears to be reasonable and therefore there cannot be any interference. He also submits that the respondent's son is still a minor and every month Rs.2,500/- is required for his maintenance and this amount cannot be reduced at all.

6. After going through the impugned judgment, we are of the opinion that the court below should have directed for an enquiry to be held before directing the appellant to pay permanent alimony of Rs.6,00,000/- to the respondent. Fixation of this sum is nothing but a surmise. The appellant's counsel has filed an affidavit of the appellant along with some documents to show the actual income of the appellant. The respondent has also produced some documents in support of her case to justify the claim for alimony.



7. It is to be stated that if the parties had produced the documents before the trial court it would have been easier for the court below to arrive at a figure to be awarded as alimony to the respondent. For the first time these documents are produced here. But the trial court could have directed the parties to file statements of their assets and liabilities before directing the appellant to pay Rs.6,00,000/- towards alimony. In our opinion, an enquiry was necessary which the trial court failed to hold and therefore we find a situation warranting remand of the matter to the trial court for the limited purpose of determining the alimony to be paid to the respondent. We make it clear that the direction given by the trial court to pay Rs.2,500/- per month for the maintenance of the son cannot be disturbed at all and the appellant being the father of the child has to bear this expense till the son attains majority.

8. As it is found that the marriage between the parties has been dissolved and until conclusion of enquiry,



it is proper that the appellant should deposit a certain sum to be paid to the respondent. During arguments, the appellant's counsel submitted that the appellant is ready to pay Rs.2,00,000/-. Therefore till the trial court takes a decision as to the amount to be fixed, we direct the appellant now, he should deposit Rs.2,00,000/- before the trial court towards alimony and the respondent can be permitted to withdraw the same. With these observations, the following :

ORDER

- (i) Appeal is allowed.
- (ii) The judgment of the trial court as it relates to determining the alimony of Rs.6,00,000/- payable to the respondent is set aside.
- (iii) The matter is remitted to the trial court for holding an enquiry to determine the alimony payable to the respondent. The parties are given liberty to file documents in support of their claim before the trial court for the purpose of holding enquiry.



- (iv) The appellant shall deposit Rs.2,00,000/- before the trial court within four weeks from today and the respondent is permitted to withdraw the same sum.
- (v) The appellant shall pay maintenance of Rs.2,500/- to his son as ordered by the trial court.

The parties shall appear before the trial court on 4.3.2025.

Registry is directed to send back the records with a copy of this order.

**Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE**

**Sd/-
(K. V. ARAVIND)
JUDGE**

CKL
List No.: 1 Sl No.: 26