



CNR: KAHC010050132021

NC: 2026:KHC:42545-DB
MFA No. 831 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO. 831 OF 2021 (MC)

BETWEEN:

SRI. K. RAMESHA,
S/O LATE KRISHNA SHETTY,
AGED ABOUT 41 YEARS,
R/AT PETE STREET,
PANDAVAPURA TOWN,
MANDYA DISTRICT-571 434

...APPELLANT

(BY SRI. SRINATH K.R., ADVOCATE FOR
SRI. MANJUNATHA G., ADVOCATE)

AND:

SMT. K.S. JAYASHREE,
W/O K. RAMESH,
D/O K.C. SUBBAIAH,
AGED ABOUT 33 YEARS,
R/AT JANARDHAN STREET,
KIKKERI VILLAGE AND HOBLI,
K.R. PETE TALUK, MANDYA
DISTRICT - 577 133

...RESPONDENT

(BY SMT. VAISHALI HEGDE, ADVOCATE FOR RESPONDENT
(AS AMICUS CURAIE TO ASSIST THE COURT
RESPONDENT K.S. JAYASHREE SERVED)



CNR: KAHC010050132021

NC: 2026:KHC:42545-DB
MFA No. 831 of 2021

THIS MFA IS FILED UNDER SECTION 28(1) OF THE HINDU MARRIAGE ACT, AGAINST THE JUDGEMENT AND DECREE DATED 12.10.2020 PASSED IN M.C.NO. 32/2016 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, PANDAVAPURA, DISMISSING THE PETITION FILED UNDER SECTION 13(1)(I-A) AND 13(1)(I-B) OF THE HINDU MARRIAGE ACT, 1955.

THIS MFA, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M.NADAF)

The husband-petitioner before the Family Court is before us in this appeal, assailing the judgment and Decree dated 12.10.2020 passed by the Senior Civil Judge and JMFC, Pandavapura¹ in M.C.No.32/2016.

¹ The Family Court, for short



CNR: KAHC010050132021

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MFA No. 831 of 2021**

2. Under the impugned Judgment and Decree, the Family Court dismissed the petition filed by the petitioner husband, seeking for a divorce on the ground of cruelty and desertion under Section 13(1)(i-a) and (i-b) of the Hindu Marriage Act, 1955.

3. The parties are referred to as per their ranking before the Family Court.

4. Facts germane to file the present appeal are as under:

4.1 The petitioner and the respondent are husband and wife. Their marriage was solemnized on 11.03.2010 at Smt.Rangamma Chairman Thimmaiah Community Hall, Kikkeri as per Hindu customs and rites. From their wedlock, a girl child was born named as P.R.Rakshitha.

4.2 The main contention of the petitioner is that, he is working in Indian Border Security and was always



CNR: KAHC010050132021

posted in war front areas, as such he was not in a position to take the respondent with him. In the year 2012, during Gowri-Ganesha festival, the father and brothers of respondent with some unknown persons trespassed his house and threatened petitioner's father with dire consequence that, if the petitioner does not come home, he will be killed. It is contended that the respondent also left the matrimonial home and never came back.

- 4.3 The petitioner contended that, the respondent's family members also gave torture to his sister by making applications to the School where petitioner's sister was working seeking her salary particulars and they also gave false complaint against petitioner's another sister who was working as an Anganawadi Teacher to local Women and Child Welfare Department. Thereafter, the respondent filed a petition against him claiming maintenance. This made the petitioner to file a petition seeking divorce.



CNR: KAHC010050132021

4.4 After service of notice, the respondent-wife appeared and filed her statement of objections. She admitted the marriage and birth of minor girl P.R.Rakshitha and the occupation of the petitioner in Indian Border Security Force, so also the petition filed by her against him seeking maintenance and denied all other petition averments and sought to dismiss the petition.

5. Having considered the rival submissions and appreciation the evidence, both oral and documentary, the Family Court was of the opinion that, the petitioner-husband has not produced any relevant documents to prove the allegation of mental cruelty by the respondent to him and his family members as pleaded in the petition. So far as ground of desertion is concerned, the Family Court held that there are no allegations against the respondent that on 05.03.2012, the respondent deserted the petitioner without reasonable cause and without his consent or against his wish or the respondent has willfully



CNR: KAHC010050132021

neglected the petitioner and hence, the petitioner has not proved that the respondent wife has deserted him for a continuous period of not less than two years, immediately preceding the presentation of the petition. With this, the Family Court proceeded to dismiss the petition filed by the petitioner-husband seeking divorce. It is this Judgment and Decree, passed by the Family Court is called in question in this appeal.

6. Heard, Sri.Manjunatha.G, learned counsel appearing for the appellant and Smt.Vaishali Hegde, learned *Amicus Curiae* assisting the Court on behalf of the respondent.

7. Since the respondent was placed ex-parte before us, and as the appeal is filed seeking dissolution of marriage, in the interest of justice, we appointed Smt.Vaishali Hegde, learned counsel as *Amicus Curiae* to assist the Court on behalf of the respondent.



CNR: KAHC010050132021

8. Today, Smt.Viashali Hegde, *Amicus Curiae* filed a report in respect of present condition of the respondent and kept both wife and the daughter present before us is the open court. Their physical appearance reveals a very distressed pathetic condition. The child is mentally disabled/specially abled child.

9. Though learned counsel for the appellant, tried to reiterate the very same contentions, we are not impressed with his contentions, which have already been considered by the Family Court and rejected as he has not proved the allegations made against the wife.

10. The institution of marriage is a sacramental tie which cannot be set at naught on mere asking by one of the spouse without proving the ingredients contained in the provisions under Section 13 of the Hindu Marriage Act, 1955 under which the petition was moved for divorce. In our considered opinion, the Family Court has rightly



CNR: KAHC010050132021

**NC: 2026:KHC:42545-DB
MFA No. 831 of 2021**

appreciated the material on record and dismissed the petition.

11. Considering the condition of the wife and child (who is now 14 years of age), we are of the opinion that the amount of Rs.10,000/-, which now being paid by the petitioner-husband as per his contentions, is inadequate to maintain basic human life with a special child. In that view of the matter, we direct the Drawing Officer of the petitioner, to attach 40% of the petitioner's Gross Salary and after the petitioner's retirement, 40% of his pension and other pensionary benefits be deducted and paid directly into the account of the respondent-wife, which would be produced before the said officer along with copy of this order, till the wife remarries. If the wife remarries, 20% of pension be paid in the account of girl child P.R.Rakshitha. The wife is also entitled for Family Pension, since the petition for divorce is rejected and the respondent continued as wife.



CNR: KAHC010050132021

NC: 2026:KHC:42545-DB
MFA No. 831 of 2021

12. Accordingly, we ***dismiss*** the appeal with the above observations.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(T.M.NADAF)
JUDGE

TKN
List No.: 1 Sl No.: 21