

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO.3214 OF 2025 (GM-FC)

BETWEEN:

SMT. CHANDRAKALA V.B.
DAUGHTER OF BABU,
WIFE OF JANARDHAN
AGED ABOUT 26 YEARS
RESIDING AT VADDARAHALLI
MAKAVALLI KRISHNARAJPET
MANDYA -571 426.

...PETITIONER

(BY SMT. VASUNDHARA T.P.,ADVOCATE)

AND:

SRI. JANARDHAN R.
SON OF RANGAPPA,
AGED ABOUT 40 YEARS,
RESIDING AT NO.377,
MARIYA NILAYA,
28TH WARD KORAMARAPETE,
CHIKBALLAPURA CITY AND DISTRICT- 562 101.

NOW R/AT
ALAMBADI RANGASWAMY NILAYA,
VAPASANDRA NORTH EXTENSION, AND
WARD, I 1ST DIVISION,
CHIKBALLAPUR CITY- 562 101.

...RESPONDENT

(BY SRI. SUDHAKAR G.V.,ADVOCATE (VC))

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED M.C.NO.59/2024 BY DATED:27.01.2025 PASSED IN THE LEARNED PRL.FAMILY JUDGE, CHIKKABALLAPURA, AS PER ANNEXURE-E AND THEREBY ORDERED TO ALLOW THE I.A FILED UNDER ORDER 18 RULE 17 AND I.A UNDER SECTION 151 OF THE CODE OF THE CIVIL PROCEDURE PER ANNEXURE-C AND D AND ETC.

Digitally signed by
VIJAYALAKSHMI
B N
Location: HIGH
COURT OF
KARNATAKA



THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 16.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV ORDER

The present writ petition is filed praying for issuance of a writ of certiorari to set aside the impugned order dated 27.01.2025 passed in M.C.No.59/2024 by the learned Principal Family Judge, Chikkaballapura ('the Family Court' for short) (Annexure-E), whereby the applications filed under Order XVIII Rule 17 and Section 151 of the Code of Civil Procedure, 1908 seeking reopening of the case and recall of PW-1 for cross-examination, (Annexures C and D) came to be rejected, and consequently to allow the said applications.

2. The petitioner herein/wife is the respondent before the Family Court and the respondent herein/husband is the petitioner before the Family Court.

3. For convenience of reference, the parties herein are referred to as per their rankings before the Family Court.

4. The brief facts of the case are that:-

The petitioner herein, who is the respondent before the Family Court, in M.C.No.59/2024 on the file of the Family Court has called in question the order dated 25.01.2025 whereby the applications filed under Order XVIII Rule 17 read with Section 151 of the Code of Civil Procedure and under Section 151 CPC, seeking reopening of the case and recall of PW-1 for cross-examination, came to be rejected.

5. The marriage between the respondent-wife and the petitioner-husband was solemnised on 02.02.2020. The petitioner instituted M.C.No.59/2024 seeking dissolution of marriage. The respondent entered appearance and filed her statement of objections. Thereafter, the petitioner led evidence and the same was closed. At that stage, the respondent filed applications seeking reopening of the case and recall of PW-1 for the

purpose of cross-examination. The said applications were rejected by the Family Court by order dated 25.01.2025. It appears that, as per order dated 27.01.2025, the matter was posted for arguments. The last date of hearing before the Family Court was on 04.02.2025. This Court, by order dated 06.02.2025, granted stay of further proceedings.

6. The grievance of the respondent is that the Family Court has rejected the applications, thereby denying her a fair opportunity to cross-examine PW-1, which amounts to a violation of the principles of natural justice. The Family Court rejected the applications on the ground that the illness of the advocate, was not considered a valid ground for seeking adjournment and that sufficient opportunities had already been granted to the respondent.

7. Heard learned counsel appearing on either side.

8. Having considered the impugned order and the material on record, this Court is of the view that the approach adopted by the Family Court cannot be

sustained. While it is true that adjournments ought not to be granted routinely and proceedings cannot be permitted to be protracted, the right of cross-examination is a valuable right and an integral facet of a fair trial. Denial of such opportunity, particularly in matrimonial proceedings, would result in serious prejudice.

9. In the present case, the request for adjournment was on the ground of illness of the learned counsel for the respondent. Though illness of counsel may not, by itself, be a ground to indefinitely defer proceedings, the rejection of the applications has resulted in closing the respondent's right to cross-examine PW-1 altogether. Such a consequence is disproportionate and cannot be justified solely on the ground assigned by the Family Court.

10. Further, the observation of the Family Court that the applications constitute an abuse of process is not supported by any material indicating deliberate or *mala fide* conduct on the part of the respondent. The finding

that sufficient opportunity had been granted is also not borne out by a consideration of whether an effective opportunity to cross-examine PW-1 was actually availed. The impugned order, therefore, suffers from arbitrariness and has resulted in denial of fair hearing. Therefore, this Court is satisfied that the impugned order dated 25.01.2025 warrants interference under Article 227 of the Constitution of India.

11. In view of the above, this Court proceeds to pass the following:-

ORDER

*(i) The writ petition is **allowed**.*

(ii) The impugned order dated 25.01.2025 passed in M.C.No. 59/2024 by the Principal Family Judge, Chikkaballapura, is set aside.

(iii) The applications filed by the petitioner herein-wife under Order XVIII Rule 17 read with Section 151 CPC and under Section 151 of the CPC are allowed. PW-1 shall be recalled for the purpose of cross-examination.

(iv) The Family Court shall proceed with the further proceedings in accordance with law and dispose of the main matter on merits.

(v) The petitioner herein shall pay costs of Rs.1,000/- to the Legal Services Authority concerned within a period of two weeks from the date of receipt of a certified copy of this order.

(vi) The Principal Family Judge, Chikkaballapura, is directed to dispose of M.C.No.59/2024 expeditiously, i.e., within a period of three (3) months from the date of receipt of a copy of this order.

(vii) Both parties shall cooperate for early disposal of the matter.

Accordingly, this petition is allowed with Cost of Rs.1,000/-.

**SD/-
(DR.K.MANMADHA RAO)
JUDGE**

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