



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

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

MISCELLANEOUS FIRST APPEAL NO. 1529 OF 2023 (FC)

BETWEEN:

SMT. HEMAVATHI,
W/O R SATHISH,
D/O CHANDRAPPA,
AGED ABOUT 36 YEARS,
RESIDING AT NO.10,
KAMAKSHIPALYA,
NEAR AMBA MAHESHWARI TEMPLE,
BANGALORE.

AND ALSO AT NO.38,
MIG, 80 FEET ROAD,
KENGARI SATELLITE TOWN,
BENGLAURU - 560 086.

...APPELLANT

(BY SMT. PRAJWALA SATHYA PRAKASH, ADVOCATE)

AND:

SRI. R SATHISH,
S/O V K RAMEGOWDA,
AGED ABOUT 41 YEARS,
RESIDING AT NO.38,
MIG, 80 FEET ROAD,
KENGARI SATELLITE TOWN,
BENGALURU - 560 060.

...RESPONDENT

(BY SRI. G. NARAYANA RAO, ADVOCATE)



THIS MFA IS FILED UNDER SECTION 19(1) OF FAMILY COURTS ACT, AGAINST THE JUDGMENT AND DECREE DATED 30.09.2013 PASSED IN MC NO.1874/2005 ON THE FILE OF THE VI ADDITIONAL PRL. JUDGE, FAMILY COURT, BENGALURU, REJECTING THE PETITION FILED UNDER SECTION 13(1)(iii) OF THE HINDU MARRIAGE ACT.

THIS APPEAL, COMING ON FOR HEARING - INTERLOCUTORY APPLICATION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL ORDER ON I.A.No.1/2023

(PER: HON'BLE MR. JUSTICE JAYANT BANERJI)

This application is filed seeking condonation of delay of 2,633 days in filing the appeal. The affidavit is sworn by the applicant in support of the aforesaid application in which it is stated as follows:

- 1. "I have filed the above Misc. First Appeal against the judgment and decree dated 30.9.2013 in M C No.1874/2005 on the file of VI Addl. Principal Judge, Family Court, at Bengaluru granting decree of divorce in favour of the respondent. The detailed*



averments made in the appeal memo may kindly be read as part and parcel of this affidavit in order to avoid repetition of facts.

2. I submit that the impugned judgment and decree is passed on the sole ground that I did not appear in the case after the mediation settlement. I submit that I was made not to appear before the Hon'ble Court and made to believe that there is nothing to be done after the settlement before the mediation. The reason assigned that there is long separation between me and the respondent is not correct. Even prior to filing of divorce petition, during pendency and even after the decree, myself and respondent were living together, stayed outside city and toured together. The respondent threatened me not to enquire about the divorce petition and if it is enquired she would be killed by giving supari in July - August, 2019. Thereafter, the respondent started totally neglecting me and my son. Thereafter, the enquiry was made and I came to know about the judgment and decree of divorce.

3. I humbly submit that I have no means of livelihood. With no any other alternative, I had to take shelter along with my son in the house of the parents. I was in fact ill-treated by the respondent and his family members. For the welfare of the children and to maintain the marital relationship, I tolerated all the pinpricks and lived with the respondent. When



the petition was filed, it was told to me that it was simply filed to get dowry amount from my parents. A settlement was entered into before the mediation and without reference to the same, the impugned judgment and decree of divorce is passed. The court below has failed to consider the materials on record and has failed to draw proper inference from those materials. The inferences drawn are erroneous.

- 4. The court below has seriously erred in not considering the alimony either permanently or otherwise. I have no source of income for my survival. With no other alternative, I had to shift to my parents house in 2019.*
- 5. I humbly submit that after I came to know the impugned judgment and decree, I was shocked and did not know what to do. Recently, I have come to know that the respondent has married for the second time and living with the second wife. The respondent is not entitled to decree of divorce. There is no cruelty caused to him by me and on the other hand, I was put to lot of pinpricks and trouble at the hands of the respondent and his family members. With the best interest of the children and to maintain the family relation, I had tolerated all the trouble meted out to me. The facts are twisted and it is highlighted as if I caused cruelty to the respondent.*



6. *I humbly submit that I was totally blank when I came to know the impugned judgment and decree of divorce. It was a great shock to me. I have no means to survive and on the other hand, the respondent has married for the second time and living with the second wife. There is no reason to divorce me. The tactics adopted by the respondent is to get a divorce and marry for the second time. Therefore, with no other alternative, I obtained legal advice and arranged to file the above appeal.*
7. *In the circumstances, I humbly submit that the delay caused in filing the above appeal are due to bona fide reasons and not due to negligence. I have entered appearance and appeared before the mediation and there a settlement was arrived at to live together. Without reference to the settlement report, the impugned judgment and decree is passed. The impugned judgment and decree is one-sided and on the sole ground that I did not appear, the impugned judgment and decree is passed.*
8. *I humbly submit that if the delay is not condoned, irreparable loss and injury would be caused to me. I have got a good case on merits and I have a fair chance of success in the above appeal. In order to secure the ends of justice, the delay is to be construed liberally. On the other hand, no harm or hardship would be caused to the respondent if the delay in filing the above appeal is condoned."*



2. We have perused the statement of objection filed by the learned counsel for the respondent. The averments made in the affidavit of the applicant seeking condonation of delay are stated to be false. We have perused the judgment dated 30.09.2013 passed by the VI Addl. Principal Judge, Family Court at Bengaluru in MC No.1874/2005 by means of which, the petition filed by the husband-respondent herein under Section 13(1)(ia) of the Hindu Marriage Act, 1955 was allowed. A perusal of paragraph No.4 of the judgment reflects that the respondent filed objections to the petition denying the allegations. In paragraph No.7 of the judgment, reference has been made to the order sheet of the matrimonial case and it is observed by the Court that though the mediation report was that the parties have settled their differences, several dates were given to comply with the mediation report but nobody appeared to comply. On all the dates, the respondent and her counsel remained absent. Finally having no other way, the Family Court directed notice to



be issued to the respondent but the notice was returned with a shara that 'Addressee Left'. Thereafter the matter was posted for evidence. After recording the evidence of the respondent-petitioner who appeared as PW.1 and got marked Exs.P1 and P2, and noting that several dates for cross-examination were fixed but it was deferred as neither the respondent nor her counsel appeared, therefore the cross examination was closed. Accordingly relying upon the evidence on record, the impugned order was passed and a decree was made.

3. As noted aforesaid, the decree was directed to be made by the aforesaid Judgment and decree dated 30.09.2013 and the decree was signed on 19.10.2013. The delay of ten years has not been sufficiently explained by the applicant. Vague and nebulous averments have been made in the affidavit filed in support of the delay condonation application. Moreover the intention of the applicant in filing the belated appeal is evident, that she primarily seeks permanent alimony. There can be no other



reason for the applicant to delay the filing of the appeal for ten years if she had intended to resume her marital life with the respondent. In view of the aforesaid, we do not find any merit in the I.A under the consideration. I.A.No.1/2023 is therefore, ***rejected*** and the record of this case is consigned.

4. It goes without saying that as far as the right of permanent alimony is concerned, it is always open to the applicant to seek remedy by moving an application under Section 25 of the Hindu Marriage Act, 1955 before the Family Court concerned.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**

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List No.: 1 Sl No.: 34
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