

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO.6303 OF 2026 (GM-FC)

BETWEEN:

MR. KARTHIK T.P,
AGED ABOUT 43 YEARS,
S/O SRI. THEKKATTE
PANIRAJ HEBBAR,
NO.297, 11TH CROSS, 25TH MAIN,
J.P. NAGAR, 1ST PHASE,
NEAR LIC APARTMENTS,
BENGALURU -560 078.

...PETITIONER

(BY SRI.PRABHAKAR L. SHETTY.,ADVOCATE)

AND:

SMT. ACHALA P,
AGED ABOUT 37 YEARS,
W/O SRI.KARTHIK T.P.,
RESIDING AT SUSWEE APARTMENTS,
NO.29/4/4, 15TH MAIN, 5TH PHASE,
J.P. NAGAR,
BENGALURU -560 078.

...RESPONDENT

(BY SMT. DEEPA J.,ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DATED 12.01.2026 VIDE ANNEXURE-A PASSED IN M.C. NO.5546 OF 2018, PASSED BY THE V ADDL. FAMILY JUDGE, BENGALURU, ON APPLICATION IN I.A. NO.10 UNDER ORDER 8 RULE 1 AND 9 READ WITH SECTION 151 CPC AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 17.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

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

CAV ORDER

The present petition is filed seeking to issue a writ of certiorari to set aside the impugned order dated 12.01.2026 on I.A.No.10 under Order VIII Rules 1 and 9 read with Section 151 of the CPC in M.C.No.5546/2018, passed by the V Additional Family Judge, Bengaluru ('the Family Court' for short).

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

The petitioner and the respondent are husband and wife whose marriage was solemnized on 07.02.2011, and out of the wedlock they have a son, Agasthya, aged about 10 years. It is the case of the petitioner that the respondent, without any justifiable cause, deserted him and started residing separately along with the minor child, thereby giving rise to matrimonial disputes.

3. In the above background, the petitioner instituted M.C.No.5546/2018 before the Family Court seeking restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955. The respondent entered appearance and on 14.01.2020 filed her objections along with a counter-claim seeking dissolution of marriage under Section 13 of the Hindu Marriage Act, 1955 on the ground of cruelty.

4. The matter was posted for filing objections to the counter-claim, with the initial deadline fixed as 26.02.2021. During the period affected by the COVID-19 pandemic, the matter stood adjourned from 23.06.2021 to 27.09.2021 without effective proceedings. On 27.09.2021, as no rejoinder had been filed by the petitioner, the Family Court recorded the same as "not filed" and posted the matter for petitioner's evidence.

5. The proceedings thereafter continued, and despite opportunities, the petitioner did not lead evidence, resulting in closure of his evidence on 02.08.2024. The respondent led evidence, and as per order dated

23.01.2025, the petitioner failed to cross-examine RW-1. The matter was thereafter posted for arguments, and on 19.04.2025, in the absence of representation for the petitioner, his arguments were taken as not addressed and the matter was posted for judgment.

6. At that stage, the petitioner filed I.As.No.7 and 8 seeking reopening of the case and recall of the order dated 02.08.2024. By a common order dated 03.09.2025, the said applications were rejected on the ground that sufficient opportunities had already been granted. The petitioner challenged the said order in W.P.Nos.32134/2025 and 28024/2025, which came to be dismissed.

7. The petitioner asserts that it was only upon perusal of the order dated 03.09.2025 that he came to know that no rejoinder to the counter-claim had been filed. Thereafter, he filed I.A.No.10 under Order VIII Rules 1 and 9 read with Section 151 of the Code of Civil Procedure,1908 seeking leave to place on record his rejoinder to the counter-claim.

8. The petitioner contends that the non-filing of the rejoinder was due to bona fide reasons, including the disruption caused by the COVID-19 pandemic, severe financial distress due to closure of his business, and inability to coordinate with counsel. It is further contended that during this period, continuous efforts for reconciliation were being made through elders, which continued until the end of January 2025, when the respondent allegedly refused to participate.

9. The petitioner further contends that subsequent events of material significance arose, including execution of a Gift Deed dated 24.01.2018 in favour of the respondent based on her assurance to resume cohabitation, and the subsequent execution of a Sale Deed dated 18.08.2025 in favour of a third party for Rs.42,00,000/-. According to the petitioner, the said transactions disclose fraud and breach of trust, and he has already instituted O.S.No.1318/2025 challenging the same. It is contended that these facts go to the root of the counter-claim and could not have been pleaded earlier despite due diligence.

10. The respondent, on the other hand, opposed the application contending that the petitioner had sufficient opportunity from 14.01.2020 onwards to file objections to the counter-claim, and despite repeated adjournments till 27.09.2021, he failed to do so. It is contended that the present application is filed at the fag end of the proceedings when the matter was posted for judgment, and is therefore not maintainable.

11. The respondent further contends that the reasons assigned by the petitioner are false and untenable, as he was actively participating in several other proceedings, including Crl.Misc.No.05/2018, C.C.No.53402/2022, and civil proceedings, and had been cross-examining witnesses and leading evidence therein. It is also contended that the conduct of the petitioner has already been noted in the earlier order dated 03.09.2025, which was upheld by the High Court, and that the present application is an attempt to delay the proceedings.

12. Upon hearing both sides, the Family Court framed issues as to whether the petitioner had made out

sufficient grounds to grant leave to file objections to the counter-claim. The Court took note of the procedural history commencing from the filing of the counter-claim on 14.01.2020 and the failure of the petitioner to file objections despite repeated opportunities.

13. The Family Court observed that on 27.09.2021, the objections were taken as not filed and the matter was posted for evidence. It further noted that the petitioner failed to lead evidence despite opportunities culminating on 02.08.2024, and thereafter failed to cross-examine RW-1 and address arguments, resulting in the matter being posted for judgment.

14. The Family Court considered the reasons assigned by the petitioner, namely financial distress, settlement efforts, and lack of knowledge regarding non-filing of objections, and found them to be unsatisfactory. It was held that both the petitioner and his counsel were aware of the proceedings and had sought time on earlier dates, and therefore the plea of lack of knowledge was not acceptable.

15. The Family Court also took into account the respondent's contention that the petitioner was actively litigating in other proceedings during the same period, thereby indicating that the delay was not bona fide. It concluded that the application was devoid of merits and that no sufficient ground was made out to permit filing of the rejoinder at such a belated stage.

16. Accordingly, by order dated 12.01.2026, the Family Court dismissed I.A.No.10 filed under Order VIII Rules 1 and 9 read with Section 151 CPC with costs of Rs.1,000/-, and posted the matter for judgment. Aggrieved by the said order, the petitioner has filed the present writ petition.

17. Heard learned counsel appearing on either side and perused the material placed on record.

18. This Court has considered the rival submissions and perused the material on record.

19. The record discloses that though sufficient opportunities were granted to the petitioner at various

stages, including for filing rejoinder, leading evidence, cross-examination of RW-1 and addressing arguments, the petitioner failed to avail the same. The earlier applications filed by the petitioner seeking reopening and recall also came to be rejected and the same was affirmed by this Court in W.P.No.32134/2025 and W.P.No.28024/2025.

20. However, the present application seeking leave to file rejoinder stands on a distinct footing. The petitioner has sought to bring on record certain subsequent events and material facts which, according to him, have a bearing on the adjudication of the counter-claim. In matrimonial proceedings, the Court is required to adopt a liberal approach to ensure that the real controversy between the parties is effectively adjudicated. Denial of an opportunity to place such material on record may result in prejudice.

21. In that view of the matter, this Court is of the opinion that the petitioner can be granted one final opportunity to file rejoinder, subject to payment of costs, so as to balance the equities between the parties and to avoid further delay in the proceedings.

22. In the result, the writ petition is allowed. The impugned order dated 12.01.2026 passed on I.A. No.10 in M.C.No.5546/2018 by the V Additional Family Judge, Family Court, Bengaluru, is set aside. The petitioner is permitted to file rejoinder to the counter-claim within a period of 15 days from the date of receipt of a copy of this order. The petitioner shall pay costs of Rs.20,000/- to the respondent-wife as a condition precedent. In the event of failure to pay the said costs within the stipulated time, the benefit of this order shall stand withdrawn and the impugned order shall stand revived. Upon filing of the rejoinder, the Family Court shall afford opportunity to both parties and dispose of the matter expeditiously, in any event within a period of six months from the expiry of the said 15 days period.

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

ORDER

(i) The writ petition is hereby ***allowed*** with costs of **Rs.20,000/-**.

(ii) The impugned order dated 12.01.2026 passed by the V Additional Family Judge, Family Court, Bengaluru, on I.A.No.10 in M.C.No.5546/2018 is hereby set aside.

(iii) The petitioner is permitted to file rejoinder to the counter-claim within a period of 15 days from the date of receipt of a copy of this order.

(iv) The petitioner shall pay costs of **Rs.20,000/-** to the respondent-wife within the said period, as a condition precedent.

(v) In the event of failure to pay the said costs within the stipulated time, this order shall enure to the benefit of the respondent and the impugned order dated 12.01.2026 shall stand revived automatically.

(vi) Upon filing of the rejoinder, the Family Court shall afford opportunity to both parties and dispose of M.C.No.5546/2018 expeditiously, in any event within six months from the expiry of 15 days from the date of filing of the rejoinder.

Ordered accordingly.

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

BNV