



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

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

MISCELLANEOUS FIRST APPEAL NO. 2248 OF 2026 (FC)

BETWEEN:

1. SRI.ARUN KUMAR
S/O VEERESH
AGE ABOUT 29 YEARS
WORKING ON CONTRACT BASIS
IN BESCOM DAVANAGERE
R/A HONNURUGOLLAHLATTIL VILLAGE
DAVANAGERE TALUK DISTRICT
NOW
R/A NO 220/K V, SRS COLONY,
HADADI ROAD, BAPUJI VIDYANAGAR
DAVANAGERE

...APPELLANT

(BY SRI. MANJUNATH B., ADVOCATE)

AND:

1. SMT.ASHWINI
W/O ARUNKUMAR, D/O KEDARMURTHY,
AGED ABOUT 25 YEARS
GARMENTS WORK
R/O OPPOSITE VEERESH MEEDICAL SHOP
KUKKAWADA VILLAGE,
DAVANAFGERE TALUK AND DISTRICT

...RESPONDENT

THIS MFA IS FILED U/S 19(1) OF FAMILY COURTS ACT
ACT AGAINST THE JUDGMENT AND DECREE DATED 03.12.2025
PASSED IN MC NO. 342/2023 ON THE FILE OF THE JUDGE,



FAMILY COURT, DAVANAGERE, DISMISSING THE PETITION
FILED UNDER SECTION 9 OF THE HINDU MARRIAGE ACT,
1955.

THIS APPEAL, COMING ON FOR ORDERS, 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 D K SINGH)

The present appeal has been filed under Section 19(1) of
the Family Courts Act, 1984 impugning the judgment and
decree dated 03.12.2025 passed by the Family Court,
Davanagere in M.C.No.342/2023.

2. The appellant claim to be the husband of the
respondent. He filed the aforesaid M.C.No.342/2023 under
Section 9 of the Hindu Marriage Act, 1955 seeking restitution of
conjugal rights. The Family Court on examination of the
evidence has come to a conclusion that there is no proof to
establish valid marriage between the appellant and the
respondent. Except for a few photographs, no evidence either
documentary or oral was produced by the appellant to prove
that the marriage between the appellant and the respondent



was solemnized as per the ceremonies mentioned in the Hindu Marriage Act. As the appellant failed to prove the valid marriage between him and the respondent, the Family Court has dismissed the M.C.No.342/2023.

3. To claim relief for restitution of conjugal rights, the parties should establish the relationship of husband and wife. If the parties fail to establish one of the valid marriage, no order/relief can be granted under Section 9 of the Hindu Marriage Act. It would be apt to take note of Section 9 of the Act, which reads as under:

"9. Restitution of conjugal Rights:- When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the district court, for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

Explanation:--Where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving



reasonable excuse shall be on the person who has withdrawn from the society.

4. As the appellant has failed to prove the valid marriage, he cannot be the husband of the respondent and therefore, there is no question of granting an order under Section 9 of the Act. We, therefore, find no merit in this appeal and accordingly, the appeal is ***dismissed***.

5. In view dismissal of the appeal, pending interlocutory applications, if any, do not survive for consideration and accordingly, they stand disposed of.

**Sd/-
(D K SINGH)
JUDGE**

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