



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH 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. 5617 OF 2025 (MC)

C/W

MISCELLANEOUS FIRST APPEAL NO. 5366 OF 2025

IN MFA No. 5617/2025

BETWEEN:

1. VENKATESH
S/O TIMMEGOWDA,
AGED ABOUT 45 YEARS,
R/AT NO. 191, KATTEBEEDI,
HOTTIGANAHOSAHALLI,
CHAKKERE POST, CHANNAPATNA,
MANDYA - 562160.

PRESENTLY RESIDING AT
FLAT NO.267, GROUND FLOOR,
ANNAPOORNESHWARI NAGAR,
3RD 'B' MAIN, 9TH CROSS, HEALTH LAYOUT,
NAGARABHAVI, BENGALURU-91.

...APPELLANT

(BY SRI. PRITHVI RAJ B N., ADVOCATE)

AND:

1. SWETHA
W/O VENKATESH
AGED ABOUT 40 YEARS,
R/AT JOGA ROAD, SAGAR TOWN,

Digitally
signed by
VASANTHA
KUMARY B K
Location:
HIGH
COURT OF
KARNATAKA



SHIMOGA-577401.

PRESENTLY RESIDING AT
SHIVAM NILAYA, 6TH CROSS,
GOPALAGOWDA BADAVANE
E-BLOCK, 60 FT ROAD,
SHIVAMOGGA - 577205.

...RESPONDENT

(BY SRI. PRUTHVI WODEYAR., ADVOCATE)

THIS MFA IS FILED UNDER SECTION 28(1) OF HINDU MARRIAGE ACT, AGAINST THE JUDGMENT AND DECREE DT.29.11.2023 PASSED IN MC NO. 71/2019 ON THE FILE OF THE PRL SENIOR CIVIL JUDGE AND JMFC, SAGAR, DISMISSING THE PETITION FILED U/S 9 OF THE HINDU MARRIAGE ACT, 1955.

IN MFA NO. 5366/2025

BETWEEN:

1. VENKATESH
S/O TIMMEGOWDA,
AGED ABOUT 45 YEARS,
R/AT NO. 191, KATTEBEEDI,
HOTTIGANAHOSAHALLI,
CHAKKERE POST, CHANNAPATNA,
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ANNAPOORNESHWARI NAGAR,
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...APPELLANT

(BY SRI. PRITHVI RAJ B N., ADVOCATE)

AND:

1. SWETHA



NC: 2026:KHC:30477-DB
MFA No. 5617 of 2025
C/W MFA No. 5366 of 2025

W/O VENKATESHA
AGED ABOUT 40 YEARS,
R/AT JOGA ROAD, SAGAR TOWN,
SHIMOGA-577401.

PRESENTLY RESIDING AT
SHIVAM NILAYA, 6TH CROSS,
GOPALAGOWDA BADAVANE
E-BLOCK, 60 FT ROAD,
SHIVAMOGGA - 577205.

...RESPONDENT

(BY SRI. PRUTHVI WODEYAR., ADVOCATE)

THIS MFA IS FILED UNDER SECTION 28(1) HINDU MARRIAGE ACT, ACT AGAINST THE JUDGMENT AND DECREE DATED 29.11.2023 PASSED IN MC NO.71/2019 AND 43/2018 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND J.M.F.C., SAGAR, ALLOWING THE PETITION FILED UNDER SECTION 13(1)(ia) AND (ib) OF THE HINDU MARRIAGE ACT, 1955.

THESE APPEALS, 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 appeals under Section 19(1) of the Family Court Act, 1984 read with Section 28(1) of the Hindu Marriage Act, 1955 have been filed impugning the common judgment dated 29.11.2023 passed by the Principal Senior Civil Judge and JMFC at Sagar in MC No.71/2019 and MC No.43/2018.



2. The respondent-wife had filed a petition for dissolution of marriage by a decree of divorce under Section 13(1) (ia) and (ib) of the Hindu Marriage Act, 1955. On the other hand, the appellant-husband had filed a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act.

3. The appellant and respondent had taken divorce from their first marriages. They came into contact of each other on a social media platform. Thereafter, they entered into matrimony and solemnized their marriage on 24.11.2016 at Srinivasa Temple, Bangalore, in accordance with Hindu rites, rituals and ceremonies. Both parties lived together as husband and wife till the year 2018 with the old aged mother of the appellant. Out of the wedlock, one son was born in the year 2018, who continues live with the respondent-wife.

4. It is an admitted fact that since 2018, the appellant and respondent have been living separately. The respondent-wife has been living at her parental home with their son. The allegations of using foul language, cruelty, neglect and threat



have been made against each other by the parties before the Family Court. The Family Court on the basis of the pleadings framed following issues on the petition filed by the appellant under Section 9 of the Hindu Marriage Act:

- i. Whether the respondent had reasonable excuse to withdraw from the society of the petitioner?*
- ii. Whether the petitioner is entitled to a decree of restitution of the conjugal rights?*
- iii. What Relief?*

5. The Family Court, after considering the evidence brought on record and a detailed examination of the oral evidence adduced by the parties, has held that the marriage was solemnized on 24.11.2016, but within 6 to 8 months of the marriage, the breakdown occurred in the relationship. The relations not only between the parties but the families of the parties are also strained. The allegations of physical assault put forth against each other have been supported in the oral testimony of the parties. Therefore, the Family Court has held that in such a situation, it would not be in the welfare and interest of the respondent to live with the appellant, as it would endanger the personal health and safety of the respondent-



wife. Therefore, the Family Court has dismissed the petition filed by the appellant under Section 9 of the Hindu Marriage Act for restitution of conjugal rights.

6. In the petition filed by the wife for dissolution of marriage by a decree of divorce, the Family Court framed the following points for consideration.

- i. Whether the petitioner was treated with cruelty by the respondents since the solemnisation of the marriage
- ii. Relief?

7. The Family Court has held that the continuation of the marriage would only amount to continuation of misery for both the parties. The matrimonial bond had broken beyond repair. Love, trust and affection had evaporated between the parties. The appellant-husband had faced civil and criminal proceedings for breach of peace. The marriage is dead between the parties and the long separation has broken their marriage irretrievably. The Family Court has also held that the appellant was guilty of causing mental cruelty to the respondent-wife.

8. We have considered the evidence on record.



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9. The allegations made against each other have been substantiated by leading the oral evidence. The appellant has faced civil and criminal proceedings. The parties have been living separately for almost more than 8 years. The marriage has irrevocably broken down between the parties. This appeal was filed with a delay of 256 days, which we have condoned. The son born out of the wedlock is living with respondent-wife. As the respondent-wife has proven cruelty caused to her by the appellant-husband, there is nothing left in the marriage. Therefore, we are of the considered view that in such circumstances, we cannot reverse the decree of divorce granted by the Family Court resolving the marriage under Section 13 (1) (ia) (ib) of the Hindu Marriage Act. Thus, we **dismiss** these appeals, however, without costs.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(T.M.NADAF)
JUDGE