



CNR: KAHC010583462023

NC: 2026:KHC:44479-DB
MFA No. 7559 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

MISCELLANEOUS FIRST APPEAL NO.7559/2023 (FC)

BETWEEN:

SMT. SHOBHA,
W/O PRAVEEN R,
AGED ABOUT 42 YEARS,
R/A CHIKKAVEERAIHNAPALYA,
SIRA GATE, TUMKUR.

...APPELLANT

(BY SRI. KISHAN G.S.,ADVOCATE)

AND:

PRAVEEN R,
S/O RANGAIAH,
AGED ABOUT 40 YEARS,
R/A NO.10, SRIRANGA,
SECOND MAIN, GOWDARA COLONY,
RMV II STAGE, NAGASHETTIHALLI,
BANGALORE-560 094.

...RESPONDENT

(BY SRI. MANJUNATHA R.S.,ADVOCATE)

THIS MFA FILED U/S.19(1) OF FAMILY COURT ACT,
AGAINST THE JUDGMENT AND DECREE DT.13.09.2023 PASSED
IN MC NO.5758/2019 ON THE FILE OF THE III ADDITIONAL
PRINCIPAL JUDGE, FAMILY COURT, BENGALURU, DISMISSING
THE PETITION FILED U/S.13(1)(i) OF THE HINDU MARRIAGE
ACT, 1955.

Digitally
signed by
MALA K N
Location:
High Court
of Karnataka



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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 H.SHANTHI BHUSHAN

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

This appeal is directed against the judgment and decree dated 13.09.2023 passed by the learned III Additional Principal Judge, Family Court at Bengaluru ('the Family Court' for short), in M.C.No.5758/2019, whereby the petition filed by the petitioner/husband seeking dissolution of marriage under Section 13(1)(ia) of the Hindu Marriage Act, 1955, on the ground of cruelty, came to be dismissed, while the petition under Section 13(1)(ib) of the said Act, on the ground of desertion, came to be allowed and the marriage solemnized between the appellant and the respondent on 11.12.2002 at Veerapadra Swamy Temple, Melkote Road, Tumakuru, and registered before the Marriage Registrar, Tumakuru, was dissolved by a decree of divorce.



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2. For the sake of convenience, the parties are referred to as they were arrayed before the Family Court.

3. The case of the petitioner before the Family Court was that his marriage with the respondent was solemnized on 11.12.2002 and that, at the time of marriage, he was aged about 19 years and the respondent was elder to him. It was his specific case that the mother of the petitioner and the mother of the respondent represented to him that certain policies were required to be obtained and, on that pretext, obtained his signatures on certain applications. Subsequently, he came to know that the documents related to registration of the marriage and that he was taken to the Sub-Registrar's Office where he came to know that the marriage between himself and the respondent had been registered.

3.1 It was further alleged that, after registration of the marriage, the respondent and her mother took away the entire money available with him and threatened him



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not to visit their house. It was also alleged that, if he attempted to visit the respondent, a police complaint would be lodged against him. The further case of the petitioner was that the respondent deserted him in the year 2003 and that he subsequently came to know that the respondent had delivered a child on 24.09.2003. According to him, the respondent neither informed him about the birth of the child nor about the naming ceremony. He further contended that whenever he requested the respondent to join him and live with him, she expressed her unwillingness to do so and refused to stay either with him or in his mother's house. According to the petitioner, from the year 2007 onwards, the parties had not resided together and there had been no physical relationship between them for several years.

3.2 The petitioner further alleged that the respondent and her family members had cheated him and ruined his life and that the respondent was not interested in continuing the matrimonial relationship. He alleged that



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he was subjected to mental agony, stress and torture, resulting in frustration and depression. On these grounds, he sought dissolution of the marriage under Sections 13(1)(ia) and 13(1)(ib) of the Hindu Marriage Act, 1955, on the grounds of cruelty and desertion.

4. The respondent entered appearance and filed her statement of objections denying the allegations made against her. She, however, admitted the matrimonial relationship between the parties. Her specific case was that the parties had lived happily together as husband and wife till the year 2010 and that thereafter the petitioner neglected her and treated her in an inhuman manner by not providing proper food and shelter. According to her, the petitioner ultimately sent her out of the matrimonial home and she was compelled to reside with her mother under her mercy. She asserted that she was always ready and willing to join the petitioner and lead a matrimonial life with him.



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4.1 It was further contended by the respondent that several attempts had been made for reconciliation, including before the Tumakuru Police Station, where the petitioner had agreed to take her back, but subsequently failed to honour the said assurance. She stated that the petitioner thereafter issued a notice seeking dissolution of marriage and that she had herself instituted proceedings for restitution of conjugal rights. She maintained that she was interested in continuing the matrimonial relationship and had never subjected the petitioner to any cruelty or torture. On these grounds, she sought dismissal of the petition.

5. The petitioner examined himself as PW-1 and marked Exs.P-1 to P-6 in support of his case. However, despite several opportunities, the petitioner was not subjected to cross-examination on behalf of the respondent. Thereafter, the respondent did not effectively participate in the proceedings and did not lead her evidence. The learned Family Court, having regard to the



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state of the proceedings, proceeded to consider the matter and ultimately dismissed the petition insofar as the ground of cruelty was concerned, while allowing the petition on the ground of desertion.

6. Aggrieved by the said judgment and decree, the respondent has preferred the present appeal, principally contending that she was denied an effective opportunity to contest the proceedings and, in particular, to cross-examine the petitioner and to lead her own evidence.

7. Learned counsel appearing for the respondent would contend that the Family Court ought to have considered the fact that the respondent had also instituted proceedings for restitution of conjugal rights in M.C. No.5760/2019 and that the said proceedings were pending before the very same Court. It is contended that both matters ought to have been clubbed and tried together, particularly when the respondent was asserting that she



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was ready and willing to resume cohabitation with the petitioner.

7.1. It is further contended that the respondent was not effectively represented before the Family Court on account of circumstances beyond her control. According to the respondent, the advocate who was on record had failed to discharge his professional duty and, as she was unable to meet the professional fees, she was constrained to change advocates on three occasions. Consequently, she was not provided effective legal assistance and was unable to cross-examine the petitioner or lead her evidence. It is therefore submitted that an opportunity may be granted to the respondent to contest the proceedings by setting aside the impugned judgment and decree and remanding the matter to the Family Court with a direction to conduct a joint trial along with M.C. No.5760/2019 and thereafter pass a common judgment.



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8. We have carefully considered the submissions made by learned counsel for the parties and perused the material available on record. The only point that arises for consideration is,

"Whether it is a fit case for interference by this Court?"

9. It is true that the respondent did not cross-examine the petitioner, though the affidavit evidence of the petitioner remained on record. It is also true that the respondent did not lead her evidence before the Family Court. Consequently, the specific defence raised by the respondent in her statement of objections, including her assertion that the parties had lived together till the year 2010, that she was driven out of the matrimonial home by the petitioner and that she was always ready and willing to resume cohabitation, has remained unsupported by oral evidence.

10. At the same time, the consequence of denying an effective opportunity to the respondent to cross-



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examine the petitioner and to place her evidence on record cannot be overlooked, particularly in a matrimonial proceedings where the rights of the parties are required to be adjudicated after providing a fair and meaningful opportunity to both sides. The allegations made by the petitioner are serious in nature and are specifically disputed by the respondent. The respondent ought to have been afforded an effective opportunity to test the evidence of the petitioner and to substantiate her own defence.

11. We also find from the record that the respondent had instituted M.C.No.5760/2019 seeking restitution of conjugal rights. The said proceedings are stated to be pending before the same Family Court. The issues arising in both proceedings are substantially interconnected and relate to the matrimonial relationship between the very same parties. In such circumstances, it would be appropriate that both matters are considered together so as to avoid conflicting findings and to enable



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the Family Court to adjudicate the matrimonial dispute comprehensively.

12. We also notice from the material placed before us that the respondent's counsel had not effectively pursued the matter, including with regard to the claim for maintenance. The record also indicates that the Family Court in M.C. No.27/2015 had directed payment of maintenance of Rs.8,000/- and that, according to the respondent, an amount of approximately Rs.7,92,000/- remained due. Though the said aspect may ultimately be determined in accordance with law, the same also indicates that the matrimonial proceedings between the parties have remained pending for a considerable period and that the dispute requires an effective adjudication on merits.

13. Under the facts and circumstances of the case, we are of the considered opinion that, in the interest of justice, the impugned judgment and decree deserves to be



set aside and the matter requires to be remanded to the learned Family Court to afford the respondent an opportunity to cross-examine the petitioner and to lead her evidence. Accordingly, we pass the following;

ORDER

(i) The appeal is allowed.

(ii) The judgment and decree dated 13.09.2023 passed by the Family Court in M.C. No.5758/2019 is set aside.

(iii) The matter is remanded to the Family Court for fresh consideration from the stage of recording the evidence of the respondent. The respondent shall be afforded an opportunity to cross-examine the petitioner, if such cross-examination has not already been completed, and thereafter to lead her evidence. The petitioner shall also be at liberty to lead such further evidence as may be permissible in law, subject to the orders of the Family Court.



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(iv) The learned Family Court shall also take up M.C. No.5760/2019 filed by the respondent for restitution of conjugal rights and conduct a common trial in both the proceedings, in accordance with the earlier directions issued by this Court in M.F.A.No.291/2016 vide order dated 11.04.2016, and shall thereafter pass a common judgment and decree in accordance with law.

(v) The parties shall appear before the learned Family Court on **27.08.2026** without awaiting any further notice.

(vi) The Family Court shall proceed with the matter from the stage indicated above and make every endeavour to conclude the proceedings, preferably within a period of six months from the date of receipt of a copy of this judgment.

(vii) Both parties shall cooperate with the proceedings and shall not seek unnecessary adjournments. The Family Court shall decide the matters independently on the basis of the evidence and material



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that may be placed before it and shall not be influenced by any observations made in this judgment, which are confined only to the question of affording an effective opportunity to the respondent and the necessity of a fresh adjudication.

All contentions of the parties on merits are left open.

Ordered accordingly.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

KNM
List No.: 1 Sl No.: 15