

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.28402 OF 2025 (GM-FC)

BETWEEN:

MRS. SANGEETHA
AGED ABOUT 44 YEARS
D/O DR.JAYAKUMAR JEGANATHAN
R/AT NO.1103, MARIAN PROMENADE,
KADRI KAMBLA ROAD,
MANGALURU - 575 004.

...PETITIONER

(BY SRI. K. JAGADISHCHANDRA KAMATH.,ADVOCATE(VC))

AND:

MR. SRIRAM RAMACHANDRAN
AGED ABOUT 48 YEARS
S/O G.RAMACHANDRAN
R/AT NO.6A, KAMBLA HEIGHTS,
KADRI KAMBLA ROAD, KADRI,
MANGALURU - 575 003.

...RESPONDENT

(BY SRI. SRIRAM RAMACHANDRAN-(PARTY-IN-PERSON)(VC))

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SETTING ASIDE THE IMPUGNED ORDER DTD 04.07.24 PASSED BY THE LEARNED I ADDL. PRINCIPAL JUDGE, FAMILY COURT, DAKSHINA KANNADA, MANGALURU, DATED 04.07.2025 (AT ANNEXURE-A) ON 1.A. NO. 3 FILED BY THE PETITIONER IN M.C. NO. 107/2025 AND ALLOW THE APPLICATION IN 1.A.NO.3 FILED BY THE PETITIONER, BY REJECTING THE MAIN PETITION IN THE PROCEEDINGS IN M.C. NO. 107/2025 AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 16.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

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

CAV ORDER

Being aggrieved by the order passed by the Court of I Additional Principal Judge, Family Court, D.K., Mangaluru in M.C.No.107/2025 dated 04.07.2025, the respondent therein has filed this petition.

2. For the sake of convenience, parties to the proceedings will hereinafter be referred to as husband and wife.

3. Wife filed I.A.No.3 under Order VII Rule 11 (A) (d) read with Section 151 of CPC seeking to reject the petition for want of cause of action. The Family Court has dismissed the application filed by the petitioner in view of the fact that there is cause of action.

4. Learned counsel for the petitioner – wife contends that the marriage was solemnized on 06.12.2009 at Kandhasami Rajammal Mahal in Virudhunagar, Tamil Nadu as per Hindu customs. The petitioner is an

Ophthalmologist and respondent is a Software Engineer by profession and out of the wedlock, two sons were born. She contends that she is living separately since 2018 and the husband has filed G & W.C.No.8/2018 on 19.06.2018 before the Family Court seeking custody of the minor children. The wife is subjected to mental, physical and financial harassment and therefore, sought for dissolution of marriage on 29.06.2020 in M.C.No.144/2020 and the Family Court granted decree of divorce along with permanent alimony on 28.03.2023. The Family Court refused to grant custody of the minor children in G & W.C.No.8/2018 vide judgment dated 17.02.2020. The husband aggrieved by the same, preferred an appeal before this Court in MFA No.3481/2020 and subsequently filed contempt proceedings arising out of MFA No.3481/2020 in CCC No.526/2020 and the same was disposed of on 01.07.2021 granting liberty to both parties to work out their custodial rights involving the minor children in MFA No.3481/2020. The petitioner preferred application seeking maintenance and the Family Court

granted maintenance for a sum of Rs.15,000/- per month and the husband challenged the same before this Court in W.P.No.18352/2022 and this Court has upheld the order of the Family Court and directed the husband to pay maintenance. Again the husband in order to harass the petitioner preferred contempt proceeding arising out of MFA No.3481/2020 in CCC No.325/2023 and same was disposed of on 12.10.2023 granting interim visitation to the husband. This Court disposed of MFA No.3481/2020 dated 12.10.2023 and challenging the same, husband has filed SLP (C) No.7211-7213/2024 on 16.01.2024, which is still pending before the Hon'ble Apex Court. The respondent – husband has filed M.C.No.107/2025 seeking restitution of marriage under Section 9 of the Hindu Marriage Act, 1955. The petitioner filed an application for rejection of the said petition contending that the same is not maintainable in view of the prior decree of divorce and constitutes an abuse of process of law. Hence, prays to allow the petition and set aside the order of the Family Court on I.A.No.3.

5. *Per contra*, the respondent – husband contended that the application filed by the petitioner – wife is abuse of process of law. It is submitted that the petition for restitution of conjugal rights filed by the husband after the stay of decree of divorce by this Court is very much maintainable. The application is hit by principles of *res judicata*. Hence, prays for dismissal of the petition.

6. Heard learned counsel appearing for the petitioner – wife and respondent – husband (party-in-person) and perused the material on record.

7. At the outset, it is to be noted that the scope of Order VII Rule 11 of CPC is limited. The Court is required to examine only the averments in the plaint/petition and not the defence raised by the opposite party. In the present case, the respondent – husband has pleaded that the marital relationship subsists on the score of the stay granted by this Hon'ble Court and therefore, sought restitution of conjugal rights. Mere grant of decree of divorce, which is under challenge and stayed by this Court

in MFA No.3666/2023 dated 27.06.2023, cannot, at this stage, conclusively render the petition under Section 9 of the Hindu Marriage Act, 1955 non-maintainable. The contentions raised by the petitioner-wife regarding delay, alleged mala fides, multiplicity of proceedings and abuse of process are all matter requiring adjudication on evidence and cannot be decided at the threshold under Order VII Rule 11 of CPC.

8. Further, the question as to whether the respondent's petition is *bona fide* or an afterthought is a question of law, which must be determined during trial. The Family Court has rightly dismissed the application filed by the petitioner-wife seeking rejection of M.C.No.107/2025. Accordingly, this Court finds no perversity or illegality in the impugned order passed by the Family Court. The order is well-reasoned and does not call for interference under writ jurisdiction. Therefore, the writ petition is devoid of merit and is liable to be dismissed.

9. In view of the above observations, I proceed to pass the following:-

ORDER

- i. The Writ Petition is ***dismissed***.
- ii. The impugned order dated 04.07.2025 passed in M.C.No.107/2025 by the I Additional Principal Judge, Family Court, D.K., Mangaluru, stands confirmed.
- iii. All contentions of the parties are kept open to be adjudicated by the Family Court on merit.
- iv. No order as to costs.

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

MH/-