



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 22<sup>ND</sup> 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. 7860 OF 2024 (FC)**

**BETWEEN:**

SMT PALLAVI  
W/O K N KRISHNEGOWDA  
D/O RAMEGOWDA  
AGED ABOUT 38 YEARS  
5<sup>TH</sup> CROSS, POST OFFICE ROAD,  
HEMAVATHI NAGARA,  
HASSAN - 573 201.

...APPELLANT

(BY SRI. SHIVABEERAAIAH S M., ADVOCATE)

**AND:**

K N KRISHNEGOWDA  
S/O NANJEGOWDA  
AGED ABOUT 50 YEARS  
H R P COLONY, HALUVALKLI VILLAGE,  
PALYA HOBLI, ALUR TALUK,  
HASSAN.

...RESPONDENT

(BY SRI.K.N.NITISH, ADVOCATE FOR  
SRI.K.V.NARASIMHAN.,ADVOCATE)

THIS MFA IS FILED U/S 19(1) OF FAMILY COURTS ACT,  
AGAINST THE JUDGMENT AND DECREE DATED:15.10.2024  
PASSED IN MC NO.126/2023 ON THE FILE OF THE COURT OF  
THE PRL. JUDGE, I ADDITIONAL FAMILY COURT, HASSAN,



ALLOWING THE PETITION FILED UNDER SECTION 13(1)(i-b)  
OF THE HINDU MARRIAGE ACT, 1955.

THIS APPEAL, COMING ON FOR FINAL HEARING, 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 T.M NADAF)

This appeal is by the wife, calling in question the  
Judgment and Decree dated 15.10.2024 passed by the Prl.  
Judge, I Addl. Family Court, Hassan<sup>1</sup> in M.C.No.126/2023.

2. The Family Court under the impugned  
Judgment and Decree, allowed the application filed by the  
petitioner – husband, dissolving the marriage by a Decree  
of divorce solemnized on 01.09.2010 at Saptapadi  
Soudhamani Kalyana Mantapa, Hassan. Further directed  
the petitioner husband to pay a sum of Rs.5,00,000/- to  
the respondent Wife within 3 months towards permanent

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<sup>1</sup> The Family Court, for short



alimony and shall continue to pay monthly maintenance as ordered in Crl.R.P.No.1388/2018 (Rs.30,000/- per month).

3. The parties are referred to as per their ranking before the Family Court.

4. Facts germane to file the present appeal are as under:

4.1 The petitioner and respondent were husband and wife. Their marriage was solemnized on 01.09.2010 at Saptapadi Soudhamani Kalyana Mantapa, Hassan. From the wedlock, a female child was born on 04.07.2011. As per the petitioner, the respondent - wife went to her parental home for delivery and did not return. Several attempts were made by the petitioner through his elders and village elders requesting the respondent to resume the marital obligation. The respondent reluctant to return, but abused the petitioner in front of relatives and friends and sent him back.



4.2 It was his further case that the respondent was insisting to arrange separate house in the City leaving his mother, when the same was refused by the petitioner, the respondent abused him and pushed him by holding his neck. A notice was issued on 12.01.2011 by the petitioner through his counsel to the respondent, which was replied by the respondent on untenable ground taking false contentions. Even, the respondent came to petitioner's work place and abused him in filthy language in front of his colleagues and obstructed him from performing his duties, which has culminated in a Complaint to the SP of the District. The SP of the District summoned both the parties and advised them to adjust and live together. But the respondent was reluctant to join and abused the petitioner with words 'Mudiya'. The petitioner having left with no other alternative, filed a petition seeking



divorce on the ground of Cruelty in M.C.No.21/2013.

On contest, the said petition came to be dismissed.

4.3 The petitioner and respondent are leaving separately since 13 years. Accordingly, the present petition was filed under Section 13(1)(i-b) of the Hindu Marriage Act, 1955<sup>2</sup>, seeking divorce on the ground of desertion.

4.4 In response to the notice of the petition, the respondent appeared and filed statement of objections denying all the averments made in the petition and taken a specific contention that the petitioner was subjecting her to cruelty and domestic violence, which has led to file a Criminal Miscellaneous No.457/2012 before the II Addl. Civil Judge and JMFC, Hassan, which renumbered as Crl.Misc.No.130/2014. The petition ended in direction to the petitioner to pay maintenance which was the subject matter in the appeal before the Sessions

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<sup>2</sup> The HM Act, for short



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Court, was affirmed by the Sessions Court. Against which a Criminal Revision Petition was filed in Crl.R.P.No.1389/2018. The same ended in settlement before the Lok-Adalat, wherein the petitioner was directed to pay Rs.30,000/- per month and either parties will not file any cases against each other. The only contention of the respondent was that the petitioner was not allowing her to enter the matrimonial home because she gave birth to female child and there is no other reason for the petitioner to stall the marriage. The respondent is always ready and willing to go along with the child and live with the petitioner, but it is the petitioner who is causing mental and physical cruelty after birth of the female child. All efforts on behalf of the respondent went in vain, even the earlier petition filed for divorce was dismissed and the dispute between them was resolved in the aforesaid Criminal Revisions Petition before this Court.



4.5 It was her further contention that if the divorce is granted, it will cause an obstacle in the marriage of the child. Accordingly, sought to dismiss the petition and to order compensation of Rs.3,00,000/- to her.

5. Upon completion of pleadings, the Family Court framed following points for consideration:

- 1. Whether the Petitioner proves that the Respondent has deserted the Petitioner for a continuous period of two years prior to the date of filing of the petition?*
- 2. Whether the Petitioner is entitled for the relief as sought for in the petition?*
- 3. What order?*

6. The Family Court answered Points No.1 and 2 in the Affirmative and proceeded to grant divorce on the ground of desertion, holding that, the petitioner and the respondent are living apart for last 10 to 12 years without resuming cohabitation. Accordingly, held that the petitioner is entitled for grant of decree of divorce on the ground of desertion.



7. The Family Court after taking note of the fact that the petitioner is working as Assistant Professor in First Grade College, Sakaleshpura Village, and has still seven years service left and as the respondent has no source of income and she being 40 years as of the date of the Judgment and looking at the number of years of separation and conduct of the parties, income of the parties and considering the status of the respondent, directed the petitioner to continue payment of Rs.30,000/- per month and further directed to pay a sum of Rs.5,00,000/- to the respondent as permanent alimony in addition to monthly maintenance stated supra. It is this Judgment and Decree passed by the Family Court is called in question in this appeal.

8. Heard, Sri.Shivabeeraiah.S.M, learned counsel appearing for the wife and Sri.K.N.Nitish, learned counsel for Sri.K.V.Narasimhan, learned counsel appearing for the husband.



9. Sri.Shivabeeraiaha, learned counsel appearing for the wife submits that earlier the petitioner husband filed a petition seeking decree of divorce on the ground of cruelty, which has resulted in dismissal for not proving the case of cruelty. He further submits that before the Lok-Adalath, the dispute between the parties had been resolved and the petitioner was directed to pay Rs.30,000/- per month to the respondent wife in terms of the settlement, wherein it was also settled that no parties shall file cases against each other. In these circumstances, the petition filed now after 10 years again seeking divorce but on the ground of desertion is not sustainable and against the settlement arrived in the aforesaid Criminal Revision Petition.

10. Learned counsel further submits that the petitioner was directed to pay a sum of Rs.30,000/- per month to the wife in the year 2021, now the petitioner – husband is placed in higher position of his service and even his income has been raised. In these circumstances,



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the direction to pay only Rs.30,000/- is inadequate in this price hiking time, where the prices of essential commodities and basic amenities are reaching sky high in rocket speed and sought enhancement of amount of monthly maintenance, as well as permanent alimony awarded. He further submits that the root cause for separate living is that the petitioner is not permitting the respondent wife to enter the matrimonial home on the premise that she has given birth to a female child and in those circumstances, having not satisfied the ingredients of Section 13(1)(i-b), more especially the expression provided to the said provision, the petitioner is not entitled for any relief. The Family Court has failed to consider this aspect of the matter, which has resulted in miscarriage of justice and accordingly, sought to set-aside the order of granting divorce on the ground of desertion and enhance the permanent alimony granted as well as the monthly maintenance awarded in CrI.R.P.No.1388/2018.



11. In contrast, Sri.K.N.Nitish, with all vehemence submits that the earlier petition which was filed seeking divorce on the ground of Cruelty, though came to be dismissed, the present petition was filed on the ground of desertion. Admittedly, the parties are living separately since 11 years and there is no resumption of cohabitation between the parties. Learned counsel submits that the marriage bonding is standing only on the mutual understanding and love & affection between the parties. The mutual understanding, sentiment and love & affection between the parties in the present case has been drained and no amount of artificial watering will bring back the spring of sentiments, love & affection and understanding between the parties. In that view of the matter, the long period of staying separate has brought down the entire marriage a meaningless bond. The Family Court having considered this aspect of the matter, has passed the Judgment and decree granting divorce, which is well within



the four of law as contemplated under Section 13(1)(i-b) of the HM Act.

12. So far as maintenance is concerned, learned counsel submits that the respondent is living along with the daughter and Rs.30,000/- per month is not a small amount. That apart, the petitioner was directed to pay sum of Rs.5,00,000/- towards permanent alimony. In these circumstances, the order passed by the Family Court in its entirety be maintained and sought to dismiss the appeal.

13. Having considered the rival submissions, we have perused the entire materials placed before us.

14. It is not in dispute that the parties are living apart since 2013 i.e., the year when the husband filed application seeking divorce. Though the same ended in dismissal, the present petition is filed seeking divorce on the ground of desertion.



15. As rightly submitted by Mr.Nitish, institution of marriage is standing only on the pillars of love & affection, mutual understanding and sentiments between the parties. Once the said stream has drained up making the parties to live separately, the same cannot be brought back by artificial watering. The sentiments and mutual attachment, bonding and understanding between them has been lost several years ago. What is left is the dead relationship and meaninglessly continuing. It is nothing but whipping a dead horse to run. When the relationship itself is dead and gone, there is no meaning in continuation of such a relationship. Even if the order passed by the Family Court is set-aside, nothing will survive between the parties as they will be left to live in the same position. Considering the long period of living apart as rightly held by the Family Court, is one of the circumstances to grant decree of divorce on the ground of desertion as there is nothing much left to regain. In that view of the matter, we find no infirmities in the order



passed by the Family Court in granting the decree of divorce, thereby dissolving the marriage on the ground of desertion.

16. So far as maintenance is concerned i.e., Rs.30,000/- ordered to be paid every month, as of now we are satisfied with the order payment of Rs.30,000/- per month. However, after three years, the respondent Wife can make an application seeking enhancement of the same if she is in a position or able to prove that the amount ordered is not sufficient to maintain herself and the female child i.e., the daughter.

17. Admittedly, the petitioner is working as an Assistant Professor in the First Grade College, Sakaleshpura and he is drawing handsome salary and as per the submission of learned counsel for the petitioner, the husband has got another two years of service left. In that view of the matter, we are of the opinion that if the quantum of permanent alimony awarded is raised by



another Rs.10,00,000/-, the same would meet the ends of justice. The said amount along with Rs.5,00,000/- awarded by the Family Court i.e., total Rs.15,00,000/- to be paid within three months from today. Out of Rs.15,00,000/-, Rs.10,00,000/- be deposited in the name of the minor female child in any interest bearing FDR with any nationalized bank and the mother be made as guardian. The Bank shall not permit any loan on the said amount. In the event any circumstances calling for education of the child requires withdrawal of the amount, the Child through her mother may make an application before the Family Court and the Family Court has to decide the said application on its merits.

18. The petitioner being the father is under obligation to perform marriage of the daughter when she attains marriageable age. All expenses are required to be met by him.



19. With these observations and modifications, the appeal stands ***allowed in part***, while confirming the decree of divorce and enhancing the permanent alimony and reserving liberty to the respondent – wife to seek for enhancement of monthly maintenance three years hereinafter in the event if she makes out a case by filing necessary application before appropriate Court under the appropriate provision of law.

20. In view of disposal of the appeal, pending interlocutory applications, if any, stands disposed of.

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

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

TKN  
List No.: 2 Sl No.: 4