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

**DATED THIS THE 27TH DAY OF MARCH, 2026**

**BEFORE**

**THE HON'BLE DR. JUSTICE K.MANMADHA RAO**

**WRIT PETITION NO.33035 OF 2025 (GM-FC)**

**BETWEEN:**

SMT. VIJAYA M.
AGED ABOUT 60 YEARS,
W/O SRI. A.M. MAHADEVAPPA
R/AT NO.12, 1ST MAIN,
BASAVESHWARA HBCS LAYOUT,
VIJAYANAGAR,
BANGALORE – 560 040.

…PETITIONER

(BY SRI. GIRI K.,ADVOCATE)

**AND:**

Digitally signed by VIJAYALAKSHMI B N
Location: HIGH COURT OF KARNATAKA

SRI. A.M. MAHADEVAPPA
AGED ABOUT 68 YEARS,
S/O G. LATE G. MALLAPPA
R/AT NO.12, 1ST MAIN,
BASAVESHWARA HBCS LAYOUT,
VIJAYNAGAR,
BANGALORE - 560040

PRESENTLY R/AT NO.13/14,
2ND CROSS,
VINOBA COLONY,
AVALAHALLI GIRINAGAR
BANGALORE – 560 026.

…RESPONDENT

(BY SRI. VIJAYA SHEKARA GOWDA V., ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSITITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI QUASHING THE ORDER DATED 12.09.2025 PASSED BY THE HON'BLE V ADDITIONAL FAMILY JUDGE, BENGALURU BY REJECTING THE APPLICATION FILED

BY THE PETITIONER FOR RECALL AND RE OPENING THE STAGE OF FURTHER CROSS OF PW1 IN M.C. 735/2016, AT ANNEXURE-F AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 03.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

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

**CAV ORDER**

This writ petition is filed by the petitioner–wife under Articles 226 and 227 of the Constitution of India challenging the order dated 12.09.2025 passed by the learned V Additional Family Judge, Bengaluru, in M.C.No.735/2016, praying to quash the Order dated 12.09.2025 and issue a writ in the nature of certiorari for reopening the stage and recalling of P.W.1 enabling the respondent's counsel to cross-examine P.W.1 by allowing the application I.A.No.6 and I.A.No.7 under Order XVIII Rule 17 read with Section 151 of CPC in M.C.No.735/2016.

2. The petitioner before this Court is the wife and respondent is the husband.

The facts leading to the filing of present petition are as under:

3. The marriage between the petitioner-wife and the respondent-husband was solemnized on 06.11.1981. Husband had filed M.C.No.735/2016 against the wife for the relief of divorce on the ground of cruelty, thereby to dissolve the marriage as it is alleged that husband had bigamous relationship with another woman by name Jyothi. Wife entered appearance through her advocate and contested the matter by filing statement of objections. The above matter was posted for evidence of PW.1 on 18.10.2021. The **husband* preferred an application for amendment. The Family Court rejected the application by order dated 27.09.2021 and posted the matter for evidence on the side of wife. In spite of granting several opportunities and adjourning the matter for more than ten occasions, the Family Court dismissed the petition for non-prosecution.

4. The respondent-husband filed a petition before Family Court, Misc.Pet.No.102/2022 praying for

** Corrected vide C/O. Dt.22-04-2026*

restoration of the petition dismissed for default. The original petition in M.C.No.735/2016 was restored by order dated 02.08.2023 and posted the matter for evidence of petitioner on 07.12.2023. Thereafter, the matter was adjourned on several occasions and on 23.07.2024, as **wife* was under treatment for cancer, **she* was unable to meet **her* advocate and give instructions. On 23.07.2024, **husband* gave **his* evidence and sought time for further chief of PW.1 and the matter was adjourned to 20.09.2024. On 20.09.2024, the **husband* filed a memo along with certain documents and got them marked as Ex.P8 to Ex.P11 and case was posted for cross-examination of PW.1 on 05.11.2024. On 05.11.2024, for want of instructions, counsel appearing on behalf of **wife* sought for time for cross-examination of PW.1 and matter was adjourned to 02.12.2024. On 02.12.2024, **wife* could not give instructions to **her* advocate due to ill-health and matter was adjourned to 18.12.2024 on payment of cost of Rs.500/-. On 18.12.2024, advocate on behalf of wife appeared and went on with cross-examination of PW.1 in

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part and matter was posted for further cross-examination of PW.1 as a last chance on 24.01.2025. On 24.01.2025, due to death of father of counsel appearing for **wife*, he could not attend the court proceedings and matter was adjourned to 24.02.2025 for cross-examination of PW.1 as a last chance. Further, matter was adjourned to 12.03.2025 for cross-examination of PW.1 fixing date of hearing as 05.04.2025. On that date, the respondent could not provide necessary information for cross-examination and **her* prayer for adjournment was rejected. The matter was posted to 05.06.2025 for further evidence of petitioner. The matter was adjourned to 15.07.2025 for evidence of respondent, again adjourned to 30.07.2025. On 30.07.2025, counsel for the respondent filed I.A.No.6 under order 18 Rule 17 and I.A.No.7 under Section 151 of CPC for recalling PW.1 and further cross-examination. The Family Court by order dated 12.09.2025 rejected both the applications I.A.No.6 and I.A.No.7 on the ground that respondent had obtained several adjournments for cross-examination. Being aggrieved by the order dated

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12.09.2025 passed by the **V* Additional Principal Judge, Family Court, Bengaluru, on I.A.No.6 and I.A.No.7, the petitioner is before this Court.

5. Learned counsel for the petitioner submitted that unless cross-examination of PW.1 is reopened and the evidence of defendants are not taken on record, the matter cannot be decided on merits. It is further submitted that the impugned order is directly discouraging the parties to proceed to final arguments without cross-examination of PW.1 and the evidence of the **respondents*. It is submitted that the petitioner could not be present before the court or give instructions to **her* advocate as **she* was diagnosed with Cancer and had to undergo treatment. Therefore, he submitted that the impugned order suffers from infirmity and it has to be quashed and further prayer for a certiorari for reopening the stage and recalling PW.1 enabling the respondent's counsel to cross-examine PW.1 by allowing applications I.A.No.6 and I.A.No.7.

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6. Learned counsel for respondent submitted that several opportunities were provided to the petitioner to cross-examine PW.1 and for evidence of defendants. In spite of that the petitioner has not utilized the opportunity and did not come forward for cross-examination of PW.1 on one or the other pretext. Therefore, it is submitted that the impugned order passed on I.A.No.6 and I.A.No.7 are just and reasonable and there are no reasons to recall the said impugned order.

7. Heard the learned counsel for the petitioner and learned counsel for the respondent and perused the records.

8. On hearing the learned counsel for the parties and on perusal of records, this Court is of considered opinion that both the parties shall be permitted to file objections to the affidavits of assets and liabilities. It would meet the ends of justice if the matter is remitted back to the Family Court for fresh consideration, in accordance with law and while fixing the quantum of maintenance, the guidelines issued by the Hon'ble

Supreme Court in ***Rajnesh vs. Neha and another*** reported in ***(2021) 2 SCC 324,*** shall be followed.

9. In the result, the following order is passed:

i) Writ Petition is ***allowed*** and the matter is remitted back to the Court of the V Additional Family Judge, Bengaluru, subject to payment of cost of Rs.20,000/- to the petitioner/wife on or before 11.04.2026, failing which, this order would not enure to the benefit of the petitioner.

ii) The respondent/husband shall pay the cost of Rs.20,000/- to the petitioner/wife and file proof regarding payment of cost along with a memo before the Family Court.

iii) Both parties are directed to appear either in person or through their respective counsels before the Family Court on **13.05.2026* without further notice.

iv) The Family Court shall complete examination as well as cross-examination of

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P.W.1 within a period of one month from the date of appearance of the parties.

v) Parties shall not seek any adjournments and should co-operate with the Court in disposal of the matter time bound.

vi) The Family Court shall give opportunity to both the parties to file objections to the affidavits of assets and liabilities respectively and shall dispose of the matter as expeditiously as possible.

v) In case of failure in compliance of the directions, this order would not enure to the benefit of the petitioner.

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

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