HC-KAR

NC: 2026:KHC:62401-DB
MFA No. 1225 of 2024

CNR: KAHC010090312024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE R DEVDAS

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO. 1225 OF 2024

BETWEEN:

MR SHARATH KUMAR BOLAR
S/O VASUDEVAKOTTARI,
AGED ABOUT 44 YEARS,
R/A # 117, NEAR ANJANEYA TEMPLE,
MANGANAHALLI, SULIKERE POST,
YASHAVANTHPURA HOBLI,
BANGALORE - 560060.

...APPELLANT

(BY SRI. ANANDARAMA K., ADVOCATE)

Digitally signed by JUANITA THEJESWINI
Location: HIGH COURT OF KARNATAKA

AND:

MRS. SHILPA
W/O SHARATH KUMAR BOLAR,
AGED ABOUT 37 YEARS,
R/A D.NO.22-01-24,
ALEMAN COMPOUND,
JEPPU MARKET ROAD,
MANGALURU - 575 001.

...RESPONDENT

(BY SRI. SANATHKUMAR SHETTY K., ADVOCATE)

THIS MFA IS FILED U/S.19(1) OF FAMILY COURT ACT, AGAINST THE JUDGMENT AND DECREE DT.28.07.2023 PASSED IN MC NO.160/2023 ON THE FILE OF THE PRL. JUDGE, FAMILY COURT, D.K, MANGALURU, PARTLY ALLOWING THE PETITION FILED U/S.9 OF THE HINDU MARRIAGE ACT, 1955 AND ALSO PETITIONER IS ENTITLED FOR A DECREE OF RESTITUTION OF CONJUGAL RIGHTS, DIRECTING THE RESPONDENT TO TAKE THE PETITIONER ALONG WITH SON TO THE MATRIMONIAL HOUSE AND RESTORE THE MATRIMONIAL RELATIONSHIP WITHIN 3 MONTHS FROM THE DATE OF THIS DECREE, ALSO ENTITLED FOR A MONTHLY MAINTENANCE OF RS.30,000/- FROM 01.04.2023 TILL RESTITUTION OF MATRIMONIAL RELATIONSHIP, HEREBY AWARDED A SUM OF RS.10,000/- AS COST OF LITIGATION AND ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R DEVDAS
and
HON'BLE DR. JUSTICE K.MANMADHA RAO

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE R DEVDAS)

Learned Counsel for the appellant submits that in the petition filed by the respondent, the address of the appellant who is the respondent in the said petition is the residential address of the appellant herein. However, attention of this Court is drawn to Annexure-C, the copy of the notice said to have been sent to the appellant herein where the address is the official address of the appellant.

Further, attention of this Court is also drawn to the Attendance Register annexed along with the application in I.A.No.2/2024 where on 09.06.2023, the appellant was absent. However, notice is returned with a shara that the notice has been refused by the appellant. The Trial Court has noticed that the appellant has refused to receive the notice and therefore, the notice was taken as sufficiently served. Moreover, it is submitted that in the order sheet nothing is mentioned as to why the notice was sent to the official address of the appellant herein.

2. Learned Counsel further submits that no application was filed by the respondent seeking service of notice in the official address of the appellant herein and no such order was passed by the Trial Court. In that view of the matter, learned Counsel submits that it is clear that the impugned judgment is an *exparte* decree without notice to the appellant herein and therefore, learned Counsel submits that the impugned judgment and decree may be set aside and the matter may be remanded back

to the Trial Court to enable the appellant to contest the matter.

3. Learned Counsel for the respondent however submits that it is clear from the order sheet maintained by the Trial Court that the procedures were followed and since the appellant refused to receive notice, the Trial Court has rightly proceeded to pass a decree against the appellant herein.

4. Having heard the learned Counsels on both sides, this Court is of the considered opinion that the material or note on record clearly shows that there was no application filed by the respondent before the Trial Court seeking permission to serve the appellant in the official address. No orders have been passed by the Trial Court in that regard. Moreover, it has been contented by the appellant that on the said date when the notice is said to have been tendered to the appellant, he was absent and therefore, the 'shara' stating that he has refused to receive notice is clearly incorrect.

5. In that view of the matter, we accept the submissions made by the learned Counsel for the appellant and proceed to pass the following:

ORDER

(i) The appeal is allowed while setting aside the impugned judgment and decree dated 28.07.2023 in M.C.No.160/2023 passed by learned Principal Judge, Family Court, Mangaluru, Dakshina Kannada.

(ii) The matter stands remanded back to the Trial Court for re-consideration and to decide the matter afresh.

(iii) The parties are directed to appear before the learned Principal Judge, Family Court at Mangaluru, Dakshina Kannada, on **07.12.2026**, without waiting for further notice.

(iv) The appellant herein shall be permitted to file written statement within a period of 2 weeks

from 07.12.2026. Thereafter, the Trial Court shall proceed to consider the matter afresh and pass necessary orders in accordance with the law.

(v) Trial Court shall make endeavour to dispose of the matter as expeditiously as possible and at any rate within a period of 6 months from 07.12.2026.

6. In view of disposal of the appeal, pending interlocutory applications do not survive for consideration and are accordingly disposed of.

Sd/-
(R DEVDAS)
JUDGE

Sd/-
(DR.K.MANMADHA RAO)
JUDGE

DL
CT: JL