

S. Bharathi vs Manjunath

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Court : Karnataka

Decided On : Jun-16-2025

Judge : B M Shyam Prasad,G Basavaraja

Appeal No. : MFA/6465/2022

Appellant : S. Bharathi

Respondent : Manjunath

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JUNE, 2025 PRESENT THE HON'BLE MR. JUSTICE B M SHYAM PRASAD AND THE HON'BLE MR JUSTICE G BASAVARAJA MISCELLANEOUS FIRST APPEAL NO. 6465 OF 2022 (MC) BETWEEN: S. BHARATHI W/O MANJUNATH AGED 44 YEARS R/AT CHIKKAPPAYYANA MUTTA YELUVALLI ROAD VIJAYAPURA TOWN DEVANAHALLI TALUK 562110 BENGALURU RURAL DSITRICT. APPELLANT (BY SRI. JAGADEESH H T.,ADVOCATE) Digitally AND: signed by VANAMALA

N

MANJUNATHLocation:

S/O LT BASAVARAJAIAH

Karnataka YEUVALLI ROAD VIJAYAPURA TOWN DEVANHALLI TOWN 562110 BENGALURU RURAL DISTRICT. RESPONDENT (BY SRI. CHITHAPPA.,ADVOCATE) -2- THIS MFA IS FILED U/S.28(1) OF HINDU MARRIAGE ACT, AGAINST THE JUDGMENT AND

DECREE DATED 13.07.2022 PASSED IN MC NO.15028/2020 (OLD MC NO.19/2015) ON THE FILE OF THE V ADDITIONAL DISTRICT JUDGE, BENGALURU RURAL, SITTING AT DEVANAHALLI, PARTLY ALLOWING THE PETITION FILED U/S.13(1)(a) OF THE HINDU MARRIAGE ACT, 1955 R/W SEC.13 OF FAMILY COURTS ACT. THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER: CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD and HON'BLE MR JUSTICE G BASAVARAJA

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE B M SHYAM PRASAD) The appellant is aggrieved by a part of the

Judgment and decree dated 13.07.2022 in MC No.

Judge, Bengaluru Rural, sitting at Devanahalli [for short 'the Family Court']. The appellant has filed this 1 This petition is initially registered in MC No.19 of 2015 -3- petition under Section 13[1][ia] of the Hindu Marriage Act, 1955 [for short, 'the HM Act']. The appellant has succeeded in her petition under Section 13[1][ia] of the HM Act with the Family Court granting dissolution of marriage, but she is aggrieved because the Family Court has refused her permanent alimony.

2. The circumstances leading to the petition

for divorce are stated thus. The appellant and the respondent were married according to Hindu customs and rites on 10.05.1998 and they have stayed together between 1998 and 2013. The appellant has filed a petition for divorce in the year 2015, and despite this petition, she has continued to stay with the respondent for a year but has separated again because of the allegations of

infidelity. The appellant has asserted that this has caused her harassment. The appellant and the respondent have a surviving

-4- son who is aged 20 years, but they have lost two children in an accident.

3. The respondent has resisted the petition

contending that he has a heart condition and that the appellant has forsaken his company because of his condition. The Family Court, on an appreciation of the evidence and on allegation of infidelity against the appellant, has granted the dissolution of marriage by the impugned decree of divorce but refusing alimony.

4. The appellant has sought for alimony in

the present proceedings without availing the remedy available to her otherwise. In her evidence, the appellant has stated that she markets herbal life products and earns about Rs.2,000/- to Rs.3,000/- per month. The respondent has asserted that, when the appellant was with him, they were running an eatery together, but he is forced to shut down such business with the appellant forsaking his company. This is to deny that he has an income, and in the

-5- cross examination, while admitting that he has a residential property at Vijayapura and refusing to reveal the market value of such property, has asserted that he does not receive any income from the said property.

5. The Family Court, in the light of this

evidence, has opined that the appellant has failed to establish that the respondent can pay permanent alimony and that the appellant can maintain herself. The Family Court has also opined that the appellant will not be entitled to alimony because the respondent does not have a rental income. Crucially, the Family Court has observed that the appellant has neither pleaded nor proved the respondent's source of income. Indisputably, the appellant and the respondent's surviving son is twenty years old, and as observed by the Family Court, he would not be entitled to any claim for maintenance, nor the respondent entitled to claim maintenance for him. -6-

6. The learned counsels for the parties are

heard in the light of these circumstances, and this Court must observe that it remains undisputed that the pleadings on the assets owned by the respondent and his income from such assets are not elaborate, and it is fundamental that there must be pleadings in these regards if there has to be a just finding. It is also settled that a decision on an aggrieved spouses request for permanent alimony in one of the many proceedings cannot foreclose other remedies if there could be sufficient pleadings and they file affidavits of their respective assets and liabilities in the other proceedings.

7. In the light of the above and in the present

facts and circumstances, this Court is not inclined to

entertain the appellant's grievance on the grant of alimony in the present proceedings but is of the considered opinion that the appeal must be disposed of observing that notwithstanding the impugned -7-

Judgment and the disposal of this appeal, the

appellant must be at liberty to avail remedy as would be available to her in law. The appeal stands disposed of accordingly. SD/- (B M SHYAM PRASAD) JUDGE
SD/- (G BASAVARAJA) JUDGE AN/-

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