

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

ON THE 30TH DAY OF JUNE 2014

BEFORE

THE HON'BLE MR.JUSTICE K.L.MANJUNATH

AND

THE HON'BLE MR.JUSTICE RAVI MALIMATH

MISCELLANEOUS FIRST APPEAL NO.11531 OF 2012(FC)

BETWEEN:

Sreevalli S
D/o Suryanarayana Sharma
Aged about 26 years
R/at No.5/1, 1st Main,
2nd Cross, Srikanteshwara Nagar,
Mahalakshmi Layout,
Bangalore – 560 096.

...APPELLANT

(By Smt.Pramila Nesargi, Senior Advocate for M/s.Pramila Associates, Advocates)

AND:

Sri N.Harish
S/o Sri Nagaraj Shasthri
Aged about 29 years
R/at No.147, Abbigere,

Chikkabanawara Post,
Bangalore North – 560 067.

...RESPONDENT

(By Sri B.Sharath Kumar, Advocate)

This MFA is filed under Section 19(1) of Family Courts Act, against the Judgment and decree dated 19.10.2012 passed in M.C.No.444/2011 on the file of the V Additional Principal Judge, Family Court, Bangalore, allowing the petition filed under Section 12(1)(c) of the Hindu Marriage Act, for decree of nullity of the marriage.

This MFA coming on for orders this day, Ravi Malimath J., delivered the following:-

JUDGMENT

Aggrieved by the order dated 19-10-2012 passed by the V Additional Principal Judge, Family Court, Bangalore, in M.C 444/2011 allowing the petition of the wife under Section 12 (1)(c) of the Hindu Marriage Act, by annulling the marriage performed on 20-9-2010 and further rejecting the plea of the wife for permanent alimony, the wife has filed the present appeal.

2. The learned counsel appearing for the appellant contends that the impugned order is bad in law

and liable to be set aside. That the lower Court has failed to consider the plea of the appellant-wife for grant of alimony. It is further contended that so far as the decree granted by the lower Court annulling the marriage is concerned, the appellant-wife has no grievance. The appeal has been filed purely seeking alimony from the respondent-husband.

3. On the other hand, the learned counsel appearing for the respondent-husband defends the impugned order.

4. On hearing learned counsels, we are of the considered view that the appropriate relief requires to be granted. The petition was filed under Section 12(1)(c) of the Hindu Marriage Act seeking decree of annulling the marriage performed on 20-9-2010. Considering the contentions and the plea of both the parties the lower Court by the impugned order allowed the petition. The

marriage of the appellant with the respondent celebrated on 20-9-2010 at Bangalore was annulled. However, the relief sought for by the wife for permanent alimony was dismissed.

5. We are of the considered view that the lower Court should have considered the plea of the appellant for grant of permanent alimony having granted a decree annulling the marriage. It is only just and necessary to direct the lower Court to reconsider the plea of the appellant for grant of permanent alimony. Under these circumstances the appeal is partly allowed. The matter is remanded back to the lower Court for a fresh consideration so far as the request of the appellant is concerned for grant of permanent alimony. The decree annulling the marriage of the appellant with the respondent is confirmed. The trial court is directed to hear both the parties and pass appropriate orders on the issue of

permanent alimony as sought for by the appellant in accordance with law.

The parties to appear before the lower Court on 28th July, 2014.

Ordered accordingly.

Sd/-
JUDGE

Sd/-
JUDGE

Rsk/-