



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

**DATED THIS THE 28<sup>TH</sup> DAY OF FEBRUARY, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE PRADEEP SINGH YERUR**

**CIVIL PETITION NO.3 OF 2023**

**BETWEEN:**

AISHWARYA M S  
W/O NIKIL KUMAR B  
AGED ABOUT 21 YEARS  
C/O AISHWARYA BEARU PARLOUR  
NEAR KANNIKA PARAMESHWARI TEMPLE  
GANDHI BAZAR MAIN ROAD,  
SHIVAMOGGA - 577 203

... PETITIONER

(BY SRI.PRANESH CHANDRA.,ADVOCATE)

**AND:**

NIKIL KUMAR B  
S/O G. BALALSUNDARAM  
AGED ABOUT 26 YEARS  
NO.117, RESORVIOUR STREET  
BASAVANAGUDI  
BENGALURU 560 004

... RESPONDENT

(BY SRI.CHANABASAPPA S N.,ADVOCATE)

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THIS CIVIL PETITION IS FILED UNDER SEC.24 OF CPC,  
PRAYING TO PASS AN ORDER TRANSFERRING THE  
MATRIMONIAL CASE NO. 5570/2022, FILED BY THE  
RESPONDENT PENDING ON THE FILE OF VI ADDL PRINCIPAL  
JUDGE, FAMILY COURT AT BENGALURU TO THE PRINCIPAL  
FAMILY COURT AT SHIVAMOGGA, DIRECTING TO DISPOSE OF  
THE SAME IN ACCORDANCE WITH LAW & ETC.

Digitally  
signed by B  
LAVANYA

Location:  
HIGH  
COURT OF  
KARNATAKA



THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,  
THE COURT MADE THE FOLLOWING:

**ORDER**

Heard learned counsel for petitioner and learned counsel  
for respondent.

2. This petition is preferred by the petitioner - wife  
seeking transfer of matrimonial proceedings in  
MC No.5570/2022 pending on the file of VI Addl. Prl. Judge,  
Family Court, Bengaluru to the Family Court at Shivamogga.

3. The case of the petitioner is that the marriage  
between petitioner and respondent was solemnized on  
10.06.2022 at Samskruthi Gokula Convention Centre, J.P.  
Nagar, Bengaluru as per Hindu Rites and Customs. Thereafter,  
petitioner and respondent led their matrimonial life only for a  
period of 5 days at the residence of the respondent at  
Bengaluru and from their marriage there are no issues.

4. It is the case of the petitioner that as per the  
prevailing customs in their community the newly married girl is  
required to come to her parents home and go back to  
matrimonial home thrice within one month of the marriage.



Accordingly, after 5 days of matrimonial life, the petitioner visited her parents house at Shivamogga.

5. It is the case of the petitioner that before her marriage with respondent, one Karthik, who was a classmate of petitioner intended to marry her and sent marriage proposal to the family of the petitioner. The said marriage proposal was rejected and said Karthik was upset and angered with the petitioner and her family members.

6. It is the case of the petitioner that when the petitioner was in Shivamogga the said Karthik with an intention to break the matrimonial life of the petitioner, approached the respondent alleging that he and the petitioner were in love since seven years and allegedly married at a temple situated at Mullayanagiri Hill and he supplied fabricated documents to the respondent.

7. It is the case of the petitioner that in view of the above respondent filed a petition for dissolution of marriage under Section 13(1)(a) of the Hindu Marriage Act, 1955 in MC No.4471/2022 before the Family Court at Bangalore. Since the said petition was filed within one year of marriage, the said



petition was withdrawn by the respondent and thereafter filed another petition under Section 12 of the Hindu Marriage Act in MC No.5570/2022 to declare their marriage as null and void.

8. It is the case of the petitioner that every effort made by the petitioner to convince the respondent did not yield any fruits. Hence, she was constrained to file a petition for restitution of conjugal rights in MC No.299/2022 and also petition seeking maintenance in CrI. Misc. Pet. No.228/2022 before the Principal Judge, Family Court, Shivamogga.

9. It is the case of the petitioner that she is aged about 21 years and pursuing studies in II year B.Com at Shivamogga. She is residing in her parents house and having no financial support. Since the petitioner is residing presently at Shivamogga, it would be difficult for her to travel from Shivamogga to Bengaluru to attend the proceedings in the Family Court, which would involve lot of costs for stay, accommodation and food and the distance between two places is approximately 300 kms. Besides, the respondent and his family members are influential persons in Bengaluru and they



have men and material at their disposal, even she is having life threat if she attend the proceedings at Bengaluru .

9. In view of this, learned counsel for petitioner contends that if the matter is transferred to Shivamogga, where the petitioner is residing, it will be easy for her to attend to the case and she would not have to incur much expenditure. Hence, filed the present petition to transfer the said case to the Court of VI Addl. Prl. Judge, Family Court, Shivamogga and to be tried along with pending MC No.299/2022 and Cr. Misc. Pet. No.228/2022 filed by the petitioner before the Principal Judge, Family Court, Shivamogga.

10. *Per contra*, learned counsel for respondent vehemently contends that the respondent-husband is that after the marriage they started living in the house of respondent at Bengaluru along with his family members. He further contends that he is having heavy responsibility upon his shoulder and he has to look after his parents, who are solely depending upon him. He is ready and willing to accept his wife – petitioner and to lead a happy life. In view of the above he is not in a position to travel all the way from Bengaluru to Shivamogga to attend



the proceedings. On these grounds he seeks to dismiss the present petition filed by the petitioner.

11. Be that as it may, the facts remains that this petition is filed seeking transfer of petition and this Court will have to see the difficulties that would be faced by either of the parties in the matter being transferred from one location to another. The petitioner being the wife and unemployed and residing in her parents house, she will be put to more difficulty than the respondent, if she has to travel from Shivamogga to Bengaluru. It is to be noted that the distance between Shivamogga to Bengaluru is about 300 kms. On the contrary, the hardship and inconvenience is much lesser to the respondent if he travel from Bengaluru to Shivamogga to attend the proceedings.

12. Under these circumstances, I am of the opinion that the petition deserves to be allowed. Accordingly, I pass the following:

**ORDER**

- i) Petition is allowed;



- ii) The matrimonial proceedings in MC No.5570/2022 pending on the file of VI Addl. Prl. Judge, Family Court, Bengaluru is transferred to the Family Court at Shivamogga to be tried along with pending MC No.299/2022 and Cr. Misc. Pet. No.228/2022 filed by the petitioner before the Principal Judge, Family Court, Shivamogga.;
- iii) In view of the fact that both the parties are represented by learned counsel, both the parties shall appear before the Court at Shivamogga on 01.04.2023 without awaiting any further notice from the Family Court, Shivamogga.;
- iv) Learned Judge of the Family Court at Shivamogga to dispose of the matter as expeditiously as possible.



- v) Parties to the proceedings shall cooperate  
for speedy disposal of the case.

**SD/-  
JUDGE**

VK  
List No.: 1 Sl No.: 46