



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF MAY, 2024

BEFORE

THE HON'BLE MR JUSTICE H.T. NARENDRA PRASAD

CIVIL PETITION NO. 111 OF 2024

BETWEEN:

SMT. NAGAMMA @ NAGARATHNA
W/O DASE GOWDA
AGED ABOUT 42 YEARS
R/AT NO. 26, 10TH CROSS
7TH MAIN, AGARAHARA DASARAHALLI
BANGALORE-560079.

...PETITIONER

(BY SRI. RAJANNA.,ADVOCATE)

AND:

SRI DASEGOWDA
S/O LATE HUCHAIAH
AGED ABOUT 44 YEARS
R/AT YALACHAVADI VILLAGE
HUTHRIDURGA HOBLI
KUNIGAL TALUK
TUMKUR DISTRICT-572126.

...RESPONDENT

(BY SRI. SRINIVAS A R.,ADVOCATE)

THIS CIVIL PETITION IS FILED UNDER SECTION 24 OF CPC,
PRAYING TO A) TRANSFER THE MATRIMONIAL PETITION IN
M.C.NO.95/2023 PENDING ON THE FILE OF SENIOR CIVIL
JUDGE AND JMFC AT KUNIGAL TO PRINCIPAL FAMILY COURT
JUDGE AT BANGALORE CITY (NYAYA DEGULA).B) ISSUE ANY
OTHER RELIEF/S AS THIS HONBLE COURT DEEMS FIT IN THE
FACTS AND CIRCUMSTANCES OF THIS CASE INCLUDING
COSTS, IN THE INTEREST OF JUSTICE AND EQUITY.

Digitally signed
by
HEMALATHA A
Location: High
Court of
Karnataka



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

ORDER

1. This petition under Section 24 of CPC is filed by the petitioner-wife seeking for transfer of M.C.No.95/2023 pending on the file of Senior Civil Judge & JMFC, Kunigal to the Principal Family Court, Bangalore.

2. The petitioner is the legally wedded wife of the respondent and their marriage was solemnized on 25.06.2000 at Kothaganahalli Village, Solur Hobli, Magadi Taluk, Ramanagara, as per Hindu rites and customs. After the marriage, the petitioner was residing with her husband at her matrimonial house at Kunigal. As matrimonial disputes arose between the parties, the petitioner started living separately with her brother at Bengaluru from 2007. Thereafter, the respondent-husband filed a divorce petition under Section 13(1) of the Hindu Marriage Act in M.C.No.95/2023 before the Senior civil Judge & JMFC, Kunigal. The case of the petitioner is that since the petitioner is residing at Bengaluru, it would cause



inconvenience and great hardship for her to travel a distance of 80 kms to Kunigal to prosecute the case. Hence, she filed the present petition seeking for transfer of case.

3. The learned counsel for the petitioner-wife contended that after the marriage, the petitioner was residing at her matrimonial house. Thereafter, due to matrimonial disputes, the petitioner started living separately with her brother at Bengaluru. He further contended that the petitioner has filed C.Misc.No.17/2022 and C.Misc.No.372/2023 under Section 125(3) of the Cr.P.C. before the Principal Family Court, Bangalore seeking for maintenance. In the said cases, the respondent has appeared before the Court. Therefore, if the M.C. petition filed by the respondent is not transferred to Bengaluru, it would cause great inconvenience and hardship to the petitioner-wife. Hence, the learned counsel sought for allowing the petition.



4. The learned counsel for the respondent-husband contended that after the marriage, the petitioner was residing with her husband at Kunigal and she is familiar with the places at Kunigal. There is no fear or threat for her to attend the case at Kunigal. Hence, the learned counsel sought for dismissal of the petition.

5. Heard the learned counsel for the parties. Perused the petition papers.

6. It is not in dispute that the petitioner is the legally wedded wife of the respondent and their marriage was solemnized on 25.06.2000 at Kothaganahalli Village, Solur Hobli, Magadi Taluk, Ramanagara as per Hindu rites and customs. After the marriage, the petitioner was residing with her husband at her matrimonial house at Kunigal. As matrimonial disputes arose between the parties, the petitioner started living separately with her brother at Bengaluru from 2007. Thereafter, the petitioner filed C.Misc.No.17/2022 and C.Misc.No.372/2023 under Section



125(3) of the Cr.P.C. before the Principal Family Court, Bangalore seeking for maintenance. The respondent has appeared in the said cases. The respondent-husband filed a divorce petition under Section 13(1) of the Hindu Marriage Act in M.C.No.95/2023 before the Senior civil Judge & JMFC, Kunigal. The case of the petitioner is that since the petitioner is residing at Bengaluru, it would cause inconvenience and great hardship for her to travel a distance of 80 kms to Kunigal to prosecute the case.

7. This Court in the case **Smt.M.V.Rekha v. Sri Sathya @ Suraj - ILR 2010 KAR 5407** at Paragraph No.15 has held as hereunder:

"The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that ends of justice demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of either of the parties,



the social strata of the spouses and behavioural pattern, their standard of life antecedent to marriage and subsequent thereon and the circumstances of either of the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Generally, it is the wife's convenience which must be looked at while considering transfer. Further, when two proceedings in different Courts which raise common question of fact and law and when the decisions are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions (See Smt.NandaKishori v. S.B.Shiva Prakash AIR 1993 Kar 87, Sumita Singh v. Kumar Sanjay and Anr. MANU/SC/0936/2001:AIR 2002 SC 396 and Smt.Swarna Gouri v. Sri Vinayak Pujar MANU/KA/7130/2007 : ILR 2007 Kar 4561."

(emphasis supplied)

8. Therefore, taking note of the inconvenience as made out by the petitioner and the law laid down in the case of Smt.M.V.Rekha (supra), which provides that convenience



of the wife is an aspect that is to be taken note of while considering the transfer petitions, petition deserves to be allowed. Accordingly, the following order is passed:

ORDER

- a) The petition is **allowed**.
- b) The case in M.C.No.95/2023 pending on the file of Senior Civil Judge & JMFC, Kunigal is hereby withdrawn and transferred to the Principal Family Court, Bangalore.
- c) The transferor Court is hereby directed to transmit the entire records to the transferee court.
- d) The transferee court after hearing the parties is directed to dispose of the said case as expeditiously as possible and in accordance with law.

Sd/-
JUDGE

DM
List No.: 1 Sl No.: 15