



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO. 6073 OF 2024 (FC)

BETWEEN:

SRI. SANTOSH M BIRADAR
S/O MARANINGAPPA H BIRADAR
AGED ABOUT 42 YEARS
R/AT NO.70, 6TH CROSS,
RAMASANDRA, SULIKERE, KENGERI
BENGALURU-560060.

...APPELLANT

(BY SRI. SUBHASH CHANDRA BOSE, ADVOCATE)

AND:

SMT. SHOBA
W/O SRI SANTOSH M BIRADAR
R/AT NO.70, 6TH CROSS,
RAMASANDRA, SULIKERE, KENGERI,
BENGALURU-560060.

PRESENT ADDRESS:

SMT. SHOBA W/O SANTHOSH BIRADAR
AGED ABOUT 35 YEARS
R/AT MADARAKANDI
JAMMAKANDI, BAGALKOT DISTRICT-587301.

...RESPONDENT





THIS MFA IS FILED U/S 19(1) OF FAMILY COURT ACT, 1984 AGAINST THE ORDER DATED 29.07.2024 PASSED IN MC NO.668/2023 ON THE FILE OF THE PRL. JUDGE, FAMILY COURT, BENGALURU, DISMISSING THE PETITION FOR NON PROSECUTION FILED U/S 13(1)(a) OF HINDU MARRIAGE ACT AND ETC.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE JAYANT BANERJI)

Heard learned counsel for the appellant.

2. Under challenge is an order dated 29.07.2024 passed by the Trial Court in M.C.No.668/2023, whereby noticing the absence of the petitioner and lack of representation, the petition was dismissed for non-prosecution.

3. It appears that the appellant filed a petition under Section 13(1)(a) of the Hindu Marriage Act, 1955, seeking decree of divorce. The respondent appeared and the parties were referred to mediation for settlement by the order dated 01.04.2023. On 25.11.2023 both the petitioner and the



respondent were present. On the subsequent three dates i.e., on 22.01.2024, 04.03.2024 and 18.07.2024 the petitioner was absent. However, even the respondent was absent on 04.03.2024 and 18.07.2024.

4. On 29.07.2024, noticing the absence of the petitioner, the petition was dismissed for non-prosecution.

5. A memo has been filed today in Court by learned counsel for the appellant, in which it is stated that the petitioner had met with an accident in the year 2023, because of which, he was hospitalised for a long period of time and as on date, he suffered paralysis and confined and was bedridden. Along with the memo, a discharge summary of the Department of Neurosurgery of the Manipal Hospital is enclosed, which reflects the admission date of 02.07.2023. He was discharged on 18.07.2023.

6. It is noted from the order sheet that the petitioner was also present before the Trial Court in November, 2023.

7. However, noticing the condition of the petitioner as stated in the memo, in the interest of justice, it is appropriate



that the impugned order dated 29.07.2024 be set-aside and the case be restored to its original file before the Family Court concerned. Accordingly, we direct that the order dated 29.07.2024 be set-aside and the case restored to its original file in the Family Court. Fresh notice is required to be issued to the respondent. We direct that the petitioner shall appear before the Family Court concerned on **16.03.2026**, on which date, the learned Judge is required to take appropriate steps in the matter.

8. Subject to the aforesaid directions, this appeal is ***allowed.***

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(RAJESH RAI K)
JUDGE**

HKV
List No.: 1 Sl No.: 6