



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JUNE, 2023

BEFORE

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT PETITION NO. 24429 OF 2022 (GM-FC)

BETWEEN:

1. MRS. DIVYA GANESH NALLUR,
W/O MR. GANESH NALLUR SHIVU,
AGED ABOUT 45 YEARS,
RESIDING AT NO.36, 6TH MAIN ROAD,
TATANAGAR, BANGALORE-560 092.
2. MR. GANESH NALLUR SHIVU,
S/O MR. SHIVU N.S,
AGED ABOUT 46 YEARS,
RESIDING AT NO.36, 6TH MAIN ROAD,
TATANAGAR, BANGALORE 560 092.

...PETITIONERS

(BY SRI. VIVEKANANDA H S, ADVOCATE)

AND:

NIL

...RESPONDENT



THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER VIDE ANNEXURE-A DATED 15.10.2022 PASSED BY THE III ADDL. PRINCIPAL JUDGE, FAMILY COURT, BANGALORE IN MC NO.3330/2021 AND ALLOW THE M.C.PETITION BEARING M.C.NO. 3330/2021 VIDE ANNEXURE-D BY DISSOLVING THE MARRIAGE SOLEMNIZED BETWEEN THE PETITIONERS ON 27.05.2001 AND REGISTERED ON 11.06.2001, BY GRANTING A DECREE OF DIVORCE BY MUTUAL CONSENT.

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



ORDER

Petitioners being the estranged couple, had moved a Petition for decree of dissolution of their marriage on the basis of mutual consent. In support of that, certain grounds are urged. The matter having been sent to Mediation, a report dated 2.1.2023 was furnished to the court reporting settlement. Parties had moved a Compromise Petition too, in terms of settlement arrived at before the conciliator. However, learned Judge of the Family Court, Bengaluru, has negated the claim for grant of dissolution of marriage on the sole ground that the spouses are residing under the same roof.

2. Learned counsel appearing for the Petitioners finds fault with the impugned order contending that in matters like this, the fact that the parties are residing under the same roof, pales into insignificance except for the purpose of territorial jurisdiction. The fact that the spouses are residing in the same premises could not have been a ground for making the order of the kind. Such a



flawed reasoning bewilders the Court, to say the least. Such a fact arguably may show the good culture of the spouses who are otherwise at loggerheads. The reason assigned by the Court below for denying relief to the parties constitutes an error of great magnitude apparent on the face of the record.

In view of the above, this Petition succeeds; a Writ of Certiorari issues quashing the impugned order; matter is remitted to the portals of the learned Judge of the Court below, requesting him to pass a judgment & decree in terms of the Compromise Petition and the report of the Mediator. This is to be done at the earliest.

Parties are directed to appear before the jurisdictional Family Court, Bengaluru on 23.6.2023.

Costs made easy.

Sd/-
JUDGE

cbc