



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 27TH DAY OF MARCH, 2024
BEFORE
THE HON'BLE MR JUSTICE RAVI V.HOSMANI
WRIT PETITION NO. 101992 OF 2024 (GM-FC)

BETWEEN:

1. SRI SUSHIL S/O. SADASHIV DADDIMANI,
AGE: 28 YEARS, OCC: SERICULTURE OFFICER MUDHOL,
R/O. JAMKHANDI, NOW AT MUDHOL,
TQ: MUDHOL, DIST: BAGALKOT.
2. SMT. TANUJA W/O. SUSHIL DADDIMANI,
AGE: 19 YEARS, OCC: NIL,
R/O. MUDHOL NOW AT RAMESHWAR COLONY,
JAMKHANDI, TQ: JAMKHANDI,
DIST: BAGALKOT-787301.

...PETITIONERS

(BY SRI M.C. HUKKERI, ADVOCATE)

AND:

NIL

...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE WRIT OF CERTIORARI OR ANY SUCH WRIT OR DIRECTIONS TO QUASH THE IMPUGNED ORDER PASSED IN MC NO.9/2024 BY THE BY THE PRIL. SENIOR CIVIL JUDGE AND JMFC MUDHOL ON I.A.NO.I DATED 09/02/2024 VIDE ANNEXURE-C AND CONSEQUENTIALLY ALLOW THE I.A.NO.I FILED BY THE PETITIONERS IN THE INTEREST OF JUSTICE AND EQUITY.

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





ORDER

This writ petition is filed seeking for following reliefs:

a. Issue a writ of certiorari or any such writ or directions to quash the impugned order passed in MC no.9/2024 by the Pril. Senior Civil Judge and JMFC Mudhol on I.A.no.I dated 09/02/2024 vide Annexure-C and consequentially allow the I.A.no.I filed by the petitioners, in the interest of justice and equity.

2. Sri M.C.Hukkeri, learned counsel for petitioners submitted that marriage of petitioners was solemnized as per their customs on 30.04.2023. However after marriage, petitioners were unable to live together and marriage was not consummated. It was submitted petitioner no.2 was forced to marriage and therefore she was not willing to continue relationship.

3. Under such circumstances and as petitioner no.1 was 28 years of age and petitioner no.2 was 19 years of age and they could catch up with their life, they filed petition under Section 13-B of Hindu Marriage Act, 1955 ('Act', for



short) for divorce by consent. Said petition was however filed on 17.01.2024. As it was within one year of marriage, an application under Section 14 of Act was also filed. In affidavit filed in support of application, petitioner no.2 had stated that marriage was against her wish and that she was coerced and marriage was not consummated, which circumstances were of exceptional hardship.

4. It was submitted, without proper consideration of application, learned trial Judge proceeded to dismiss application. It was submitted, only observation was that there were no averments to make out a case of exceptional hardship, which would be contrary to material on record and sought for quashing of impugned order.

5. Heard learned counsel for petitioners and perused writ petition record.

6. From above, only question that would arise for consideration is 'whether petitioners have made out a case of exceptional hardship and whether trial Court was justified in rejecting I.A.no.I?'



7. Perusal of petition at Annexure-A would indicate that there are specific pleading about petitioner no.2 being forged into marriage and due to same, she had withdrawn from marital obligations. They have also stated that marriage having not been consummated and parties being residing separately and failure of efforts for reconciliation by family members and elders. It is also seen that parties have intended to move on with their lives after obtaining divorce.

8. While passing impugned order, only reason assigned by trial Court is that there are no averments to make out a case of exceptional hardship, which does not appear to be justified in view of above observations.

9. On other hand, it would have been appropriate for learned trial Judge to have devoted some effort to enquire about existence or otherwise of exceptional hardship as provided in Section 14 of Act. Without such exercise, arrival of conclusion as above would not be justified. It is seen that period of one year, in any case would expire shortly. Under such circumstances and taking note of decision by this Court in case of **Smt.Sweety E.M. V/s Sri**



Sunil Kumar K.B. reported in ***ILR 2007 KAR 3837*** referring to decision of High Court of Delhi in case of ***Pooja Gupta and another V/s Nil*** reported in ***2003 SCC Online Delhi 1197*** as also decision in case of ***Supinder Singh V/s Amandeep Kaur*** reported in ***2023 Supreme (P & H) 955***, following:

ORDER

- i. Writ petition is allowed.
- ii. Impugned order is set aside. I.A.no.I filed by petitioners in M.C.no.9/24 on file of Principal Civil Judge and J.M.F.C., Mudhol, is allowed.
- iii. Learned trial Judge is directed to proceed with matter in accordance with law and expeditiously.

Sd/-
JUDGE

CLK
List No.: 1 Sl No.: 34