IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF FEBRUARY, 2025

PRESENT

THE HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCL. FIRST APPEAL NO.201006 OF 2024 (FC)

BETWEEN:

SRI SABU S/O BHOJAPPA GOTHE,
AGE: 33 YEARS, OCC: COOLIE,
R/O: KAKHANADAKI VILLAGE,
TQ: BABALESHWAR,
DIST: VIJAYAPURA – 586 113.

...APPELLANT

(BY SRI ARUNKUMAR AMARGUNDAPPA, ADVOCATE)

AND:

Digitally signed by BASALINGAPPA SHIVARAJ DHUTTARGAON
Location: HIGH COURT OF KARNATAKA

SMT. POOJA @ SAVITA
W/O SABU GOTHE,
AGE: 26 YEARS, OCC: HOUSE HOLD,
R/O: C/O. SIDDAPPA
S/O MALLAPPA MANAGULI,
HADAGALI VILLAGE,
TQ: & DIST: VIJAYAPURA – 586 112.

...RESPONDENT

(BY SRI VEERSHETTY, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 19(1) OF THE FAMILY COURTS ACT, PRAYING TO ALLOW THIS APPEAL AND SET ASIDE THE JUDGMENT AND DECREE DATED 20.12.2023, PASSED IN M.C.NO.59/2023, ON THE FILE OF THE PRL. JUDGE, FAMILY COURT, VIJAYAPURA, CONSEQUENTLY ALLOW THE PETITION FILED BY THE APPELLANT/PETITIONER U/S 13(1) (I) OF HINDU MARRIAGE ACT-1955, BY GRANTING DECREE OF DISSOLUTION OF MARRIAGE AND TO PASS ANY OTHER APPROPRIATE ORDERS, IN THE INTEREST OF JUSTICE.

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

CORAM: HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV
AND
HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV)

During the pendency of the present proceedings, petition under Section 13B of the Hindu Marriage Act, 1955 has been presented. Both the parties are present and submit that the petition may be allowed by granting divorce on the ground of mutual consent. I.A.No.1/2025 is filed seeking for waiver of waiting period under Section 13B (2) of the Hindu Marriage Act.

2. It is noticed that the proceedings before the Family Court had culminated in dismissal of the petition

filed by the husband seeking divorce. The parties have been living apart since 2020 as averred. Taking note of the pre-existing proceedings in M.C.No.59/2023 which was disposed of on 20.12.2023 as also the pendency of the present proceedings before this Court, it would be appropriate to waive the waiting period as the parties have been subjected to proceedings for a substantial period of time. Accordingly, I.A.1/2025 is allowed and waiting period is waived.

3. The petition filed under Section 13B of the Hindu Marriage Act recites that the parties are living apart since 2020 and due to the intervention of the elders and common friends, they have decided to put an end to the matrimonial relationship on the basis of mutual consent. This Court is satisfied regarding the wedlock between the parties and their assertion of staying apart since 2020.

4. In terms of the agreement, the appellant-husband was to pay an amount of Rs.2,50,000/- [Rupees Two Lakh Fifty Thousand only] to the respondent-wife

towards permanent alimony and return the gold ornaments and a mobile phone. Said condition is complied with, as the amount, mobile phone and gold ornaments are handed over in Court to the respondent-wife. The petition further avers that the respondent-wife has given up her right to claim maintenance or claim any rights as is mentioned in para-6 of the petition.

5. Apart from the terms mentioned in the 13B petition, both the parties make a joint submission that the appellant-husband would continue to retain custody of the child born from within the wedlock which is with him and he would continue to look after the child. The respondent-wife would be granted visitation rights to visit and spend time with the child, which the appellant-husband undertakes to allow. The said condition is agreed to be treated to be a part of the petition and parties are affixing their signature to the order sheet in evidence of the same.

6. Accordingly, the marriage between the appellant and the respondent which took place on

18.05.2018 at Kalebhag, Vijayapur stands dissolved in terms of the conditions mentioned and complied with, in the petition. The contents of the petition are affirmed by the parties and having been read over in Kannada language understandable to both.

7. Meanwhile, in light of the passing the decree on 13B petition, the Miscellaneous First Appeal is ***dismissed***. Decree to be drawn by the Registry in terms of the contents of the 13B petition.

The vakalath filed on behalf of the respondent-wife along with 13B petition are taken on record.

Sd/-
(S.SUNIL DUTT YADAV)
JUDGE

Sd/-
(RAJESH RAI K)
JUDGE

SWK
List No.: 1 Sl No.: 51