

ORDERS ON I.A.No.I

The applicant/defendant has filed I.A.I under Order VII Rule 10 of CPC, praying to returned the plaint to the Belagavi Addl. Family Court, wherein the Crl. Misc. No.284/2025 is pending between the same parties in the interests of justice.

2) In the annexed affidavit, the defendant contended that the plaintiff is her husband, who is the permanent resident of M.K. Hubli and he is working as Mechanic at Gandhi Nagar, Belagavi. Their marriage is solemnized on 21.11.2021 as per the Mohammedan Shariat at Furqania hall, Hunchanutti, Peeranwadi in Belagavi. Further contended that there is pendency of the maintenance case against the plaintiff, which is pending before the Hon'ble Addl. Family Court, Belagavi bearing Crl.Misc. No.284/2025. Further contended that the plaintiff has filed this suit for restitution of conjugal rights under order XXI Rule 32 of CPC, but this court do not have jurisdiction to try this case

as there in specific, Family Court is meant for trying matrimonial cases. Further contended that this court is not having jurisdiction to try the case as the marriage is performed at Peeranwadi, Belagavi and the defendant is resident of Angol, Belagavi. Therefore, the family court of Belagavi is having the jurisdiction to try the case.

3) The plaintiff/opponent contested this application by filing objection inter-alia contended that the defendant has filed the present application with a malafide intention only to delay the proceedings and to harass the plaintiff.

4) Further contended that pendency of Crl.Misc. No.284/2025 before the Family Court, Belagavi does not bar the plaintiff from filing the present civil suit for restitution of conjugal rights before this Hon'ble Court. Both proceedings independent in nature and maintainable under their respective statutes. Order VII Rule 10 of CPC applies only

when the plaint has been filed in a court without territorial or pecuniary jurisdiction. In the present case, this court Hon'ble court has complete jurisdiction to entertain and try the matter. Hence, the application deserves to be rejected.

5) The plaintiff has filed this suit for restitution of conjugal rights against the defendant. As per the plaint averments the permanent address of the plaintiff is H.No.328, Makan Galli, M.K. Hubli, Tq: & Dist: Belagavi. Further residential address of the defendant is Mohammad Saani (Haaris) Qurashi, Opp. Shinde Bakery, # 744/4 main road, Shivshakati Nagar, Babale Galli, Angol, Belagavi, Tq: and Dist: Belagavi. Moreover, marriage took place at Furqania Hall, Hunchanhutti, Peeranwadi, Belagavi. Furthermore, Aadhaar card of the plaintiff shows that the plaintiff is residing at Makan Galli, VTC, M.K. Hubli, Tq: and Dist: Belagavi. The specific contention of the plaintiff in the plaint that now he is residing in his relatives house on Home

No.138, Maryamma colony, 1st cross, Halkarni, Gandhi Nagar, Tq: Khanapur. But the plaintiff has not produced any proof of documents to shows that he is residing above said address. Hence, the said claim is not within the territorial jurisdiction of this court. Therefore, I proceed to pass the following: -

ORDER

I.A.No.I filed by the defendant under Order VII Rule 10 of CPC, is hereby allowed.

Consequently, the plaint returned with a direction to present before Hon'ble proper jurisdiction court.

**(Chandrashekhar Yallappa Talawar)
Senior Civil Judge & JMFC,
Khanapur.**