

**IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE
& JMFC., BANTWAL.D.K**

Present: Sri. Mahamed Imthiyaz Ahamed,
B.Sc., B.Ed., L.L.B.
Prl. Sr. Civil Judge & JMFC, Bantwal, D.K.

Dated: This the 26th day of February, 2019.

M.C. NO: 59 /2018

Petitioners: 1. Deepthi Kumari,
Aged about 24 years,
D/o. Dayananda Poojary,
2-39, Baila House,
Veerakamba Village and Post,
Bantwal Taluk, D.K.

2. G. Ganesh,
S/o. Janardhana,
Aged about 37 years,
Residing at G-2-224,
Golthamalu House and Village,
Kalladka Post,
Bantwal Taluk, D.K.

(By Adv: for P1 & P2 : Sri. K.R.N.)

Date of Institution of the petition: 08-08-2018

Nature of the Suit : Dissolution of Marriage

Date of commencement of
recording the evidence : 22-02-2019

Judgment pronounced on : 26-02-2019

Total Duration : Year/s Month/s Day/s
 - 6 18

(MAHAMED IMTHIAZ AHAMED)
Prl. Senior Civil Judge & J.M.F.C.,
Bantwal, D.K.

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**ORDERS**

This is a petition filed by the petitioners under Sec.13(B) of Hindu Marriage Act., for dissolution of their marriage solemnized between them on 14-12-2016 by the Decree of divorce.

2. It is averred in the petition that the petitioner No.1 is the legally wedded wife of petitioner No.2 and their marriage was solemnized on 14-12-2016 at “Birva Auditorium, Melkar, Panemangalore.as per the rites and customs, prevailing in the Hindu Community. It is also averred in the petition that after the marriage, both the petitioners started to lead their wedded life as wife and husband at 2<sup>nd</sup> petitioner’s house till 31-01-2017 when misunderstanding started between them and it was felt impossible for them to reside together and to lead marital life. Hence, from January 2017 onwards, 1<sup>st</sup> petitioner began to reside separately and therefore,

since then there has been no connection whatsoever between the petitioners.

3. It is also averred in the petition that all the efforts of well wishers of both the petitioners for causing reunion have become futile and now both the petitioners have come to the definite conclusion that reconciliation between them is not possible. Hence, both the petitioners decided to end their marital relationship by mutual consent by filing this petition.

4. It is also averred in the petition that 1<sup>st</sup> petitioner still continues to live in the address mentioned in the cause title. The petitioners submit that they have been living separately since more than 18 months.

5. It is also averred in the petition that there is no collusion between the petitioners in filing this petition and therefore, there is no pressure, undue influence nor fraud laid upon them by anybody. The petitioners submit that they have not been able to live together and they have mutually agreed that their marriage should be dissolved.

6. It is also averred in the petition that they have settled all claims between them and as such there is no other claim whatsoever between them for the past, present and future. On the above grounds, petitioners prayed to allow the application.

7. As the instant application is filed under Sec.13(B) of the Hindu Marriage Act, the case was posted for reconciliation. Both the petitioners appeared before the Court and submitted that they do not want to live together and they have decided to separate each other. Since the conciliation was failed, the petitioners were permitted to adduce the evidence.

8. On the basis of the above pleadings, following points arise for my consideration:

1. Whether the petition filed by the petitioners under Sec.13(B) of the Hindu Marriage Act deserves to be allowed?
2. What Order?

9. In support of the above respective contentions, petitioner No.1 and 2 examined themselves as P.W.1 and P.W.2 and got marked 6 documents at Ex.P1 to P6.

10. Heard the learned counsel for the petitioners.

11. My answer to the above points are as under:

Point No.1 : In the Affirmative.

Point No.2 : As per final order  
for the following:

### **R E A S O N S**

**12. POINT No.1:** The instant petition is filed by the petitioners jointly under Sec.13(B) of Hindu Marriage Act for dissolution of their marriage by mutual consent. The marriage of the petitioner No.1 and 2 was solemnized on 14-12-2016 at "Birva Auditorium, Melkar, Panemangalore as per the customs and rites prevailing in the Hindu Community. It is also specifically pleaded in the petition that after the marriage, both the petitioners started to lead their wedded life as wife and husband at 2<sup>nd</sup> petitioner's house till 31-01-2017 when misunderstanding started between them and it was felt impossible for them to reside together and to lead marital life. Hence, from January 2017 onwards, 1<sup>st</sup> petitioner began to reside separately and therefore, since then there has been no connection whatsoever between the petitioners. All the efforts of well wishers of both the petitioners for causing reunion have become futile and now both the petitioners have come to the definite conclusion that reconciliation between them is not possible. Hence, both the

petitioners decided to end their marital relationship by mutual consent by filing this petition. 1<sup>st</sup> petitioner still continues to live in the address mentioned in the cause title. The petitioners submit that they have been living separately since more than 18 months. There is no collusion between the petitioners in filing this petition and therefore, there is no pressure, undue influence nor fraud laid upon them by anybody. The petitioners submit that they have not been able to live together and they have mutually agreed that their marriage should be dissolved.

13. In support of their contention, both the petitioners have been examined as P.W.1 and P.W.2 and in their examination-in-chief both the petitioners deposed that they have settled all claims between them and as such there is no other claim whatsoever between them for the past, present and future. Apart from the above oral evidence, the petitioners have produced documents at Ex.P1 to P6. Ex.P1 the marriage invitation card discloses the solemnization of the marriage of the petitioners on 14-12-2016 at "Birva Auditorium, Melkar, Panemangalore. Ex.P2 is the copy of transfer certificate of petitioner No.1 Deepthi Kumari, Ex.P3 is the Certificate of birth of petitioner No.1 Deepthi Kumari, Ex.P4 is the adhar card of petitioner

No.1 Deepthi Kumari which discloses that petitioner No.1 is the resident of Veerakamba Village of Bantwal Taluk. Ex.P5 is the adhar card of petitioner No.2/G. Ganesh which discloses that petitioner No.1 is the resident of Kalladka Village of Bantwal Taluk. Ex.P6 is the copy of transfer certificate of petitioner No.2/G. Ganesh. So, the oral evidence of the P.W.1 and P.W.2 and documentary evidence at Ex.P1 to P6 discloses regarding the solemnization of the marriage between the petitioners as per the Hindu Rites and customs and also discloses that the petitioners are not in a position to live together as both the petitioners deposed before the Court on oath that it is impossible for them to reside together as no understanding between both the parties.

14. It is also pertinent to note that even in the reconciliation, the petitioners absolutely not agreed to live together even the petitioners were not ready to appear for the reconciliation and both the petitioners expressed their unwillingness to reconcile the matter. Hence, efforts made for reconciliation failed as the petitioners did not agree to live together. Hence, it clearly discloses that there is no chance of reunion. Hence, under these circumstances, the continuance of the marital relationship between the petitioners will not serve any purpose. In view of the above facts, when the

petitioners have stated on oath that the serious differences are there between the petitioners since the date of marriage and there is no understanding between both the parties in their matrimonial life and there is no peace of mind in the family life of both the petitioners even when they were together. So, under these circumstances, I am of the view that it is fit case to grant divorce as prayed for as apart from befitting facts of the case, there is a evidence of the parties to the petition to prove the said facts which is not in dispute and the petition averments and the evidence discloses that petitioners have been living separately since 18 months earlier to the presentation of the instant petition as contemplated under Sec.13(B)(1) of Hindu Marriage Act. There is no reason to disbelieve the evidence of the petitioners that their marriage has been solemnized as per the Hindu Customs and Rites and that the averments in the petition are true. Hence, under these circumstances, I come to the conclusion that petitioners are entitled for the decree of divorce by mutual consent. Hence, I answer Point No.1 in the affirmative.

15. **POINT NO.2** : In view of my answer to the point No.1 as above, I proceed to pass the following:

**O R D E R**

The petition filed by the petitioners under Sec. 13(B) of the Hindu Marriage Act., is hereby allowed.

The marriage solemnized between the petitioners on 14-12-2016 at “Birva Auditorium”, Melkar, Panemangalore is hereby dissolved.

Draw decree accordingly.

(Dictated to the stenographer directly on computer, the transcript corrected by me and then pronounced in the open Court on this the 26<sup>th</sup> day of February, 2019).

**(MAHAMED IMTHIAZ AHAMED)**  
**Prl. Senior Civil Judge & J.M.F.C.,**  
**Bantwal, D.K.**

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ANNEXURE

List of witnesses examined for Petitioners:

P.W. 1 : Deepthi Kumari

P.W. 2 : G. Ganesh

List of documents marked for Petitioners:

Ex.P1 - Marriage invitation card

Ex.P2 - Transfer certificate of petitioner No.1

Ex.P3 - Birth certificate of petitioner No.1

- Ex.P4 - Adhar card of petitioner No.1
- Ex.P5 - Adhar card of petitioner No.2
- Ex.P6 - Transfer certificate of petitioner No.2

(MAHAMED IMTHIAZ AHAMED)
Prl. Senior Civil Judge & J.M.F.C.,
Bantwal, D.K.

