

KAHV300000072021



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC  
AT HANGAL**

**Present:** Smt.Anitha, B.A. (Law) L.L.B.,  
Senior Civil Judge & JMFC.,  
Hangal.

**Dated this the 23<sup>rd</sup> day of August, 2022.**

**Crl.Misc.No.4/2021**

Petitioner: Smt.Bibi Khutija @ Hajra,  
W/o Mahammad Mustaf,  
Aged 34 years, Household work,  
R/at Labour Colony, 7<sup>th</sup> Cross,  
Davanagere, Presently residing at  
Yeli Oni, Near Jamiya Masjeed, Hangal,  
Hangal Taluk, Haveri District.

**(By: Sri.S.A.Kulakarni, Advocate)**

-Vs-

Respondents: 1. Mahammad Mustaf, S/o R. Mahammad  
Hanifsab,  
2. Smt.Parijan, W/o R. Mahammad Hanifsab,  
3. Mahammad Allabhaksh, S/o R. Mahammad  
Hanifsab,

All are residing at Labour Colony,  
7<sup>th</sup> Cross, Davanagere

**(By: Sri.H.Hanumantappa, Advocate)**

**ORDERS PASSED ON AN APPLICATION ON BEHALF OF  
THE RESPONDENT**

Learned counsel for the respondents filed the present application on 12-07-2022 to receive their objection statement. In the application it is stated that, on the last date of hearing this court has taken the objection of the respondents as not filed. The respondents applied for some documents at Hon'ble Family Court, Davanagere and those documents were necessary to file the objection. As such there is delay in filing the objection statement. If the delay is not condoned they will be put to irreparable loss and injury. On the other-hand no injury is going to cause to the other side. Hence, prayed to allow the application.

2. The learned counsel for the petitioner filed the objection contending that, the application is not maintainable under law or on facts. Already the petitioner filed the chief-examination and the cross-examination has been taken as nil. Already the objection has been taken as nil and there is delay in filing the application. The reason assigned by the respondents are not proper. It is also stated that, there is no provision to file the objection. Hence, prayed to reject the application with heavy costs.

3. Thereafter, heard arguments addressed by learned counsel for the petitioner and the respondents and perused the case papers. After hearing the arguments and on perusal of the case papers the points that arise for consideration are as hereunder:

**POINTS**

1. Whether the respondents have made out sufficient grounds to condone the delay in filing the objection?

2. What order?

4. The findings on the above points are as hereunder:

Point No.1: In the affirmative

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

**REASONS**

5. **Point No.1:** This petition is arisen out of the Domestic Incident Report submitted by the CDPO. It appears on 12-01-2021 the CDPO Hangal has submitted the Domestic Incident Report before this court which has been registered and this court issued notice to both the parties through CDPO. As such the petitioner appeared through her counsel and the respondents have also appeared through their counsel on 18-03-2021. This court has provided sufficient opportunities for the respondents to file their objection statement. At last on 13-08-2021 the objection of the respondents has been taken as nil. Thereafter, the case was posted for enquiry and on 22-12-2021 petitioner stepped into the witness box, examined herself as PW1 and got marked totally three documents as per Ex.P1 to P3. Since the respondents have not chosen to file objection, the cross-examination of PW1 and the respondents evidence has been taken as nil and the case

has been posted for arguments. On 12-07-2022 this application came to be filed along with the objection to the main petition.

6. In the application it is stated that, the respondents have applied for some documents regarding proceedings pending before Hon'ble Family Court, Davanagere. It is very much necessary to note that, this petition has been filed under Section 12 of Protection of Women from Domestic Violence Act. It is pertinent to note that, the respondents have now come up with objection statement. It is the settled principles of natural justice that, the parties to a litigation shall be given with ample opportunity to put-forth their case. If the objection is not received definitely the respondents will be deprived of their right to agitate their defence before the court. The objection statement of the respondents will enable this court to come to a just decision in the case. Hence, this court comes to the conclusion that, the respondents have made out sufficient grounds to receive the objection statement. Accordingly, Point No.1 is answered in the affirmative.

7. **Point No.2:** In view of the reasons discussed above this court proceeds to pass the following:

**ORDER**

The application filed by the respondents dated 12-07-2022 is hereby allowed with costs of Rs.300/-.

Accordingly the objection statement of the respondent is hereby received.

(Dictated to the Stenographer, transcribed and computerized by her, the transcript corrected and pronounced by me in the open court on this the 23<sup>rd</sup> day of August, 2022.)

Sd/-  
**(Anitha)**  
Senior Civil Judge and JMFC,  
Hangal