

KARC310015752025



Presented on : 25-03-2025

Registered on : 25-03-2025

Decided on : 06-06-2026

Duration: 1 years, 2 months, 12 days

**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & J.M.F.C.  
LINGASUGUR.**

**Dated this 06<sup>th</sup> day of June, 2026.**

**PRESENT: Sri.AMBANNA.K.**

**B.Com, L.L.B. [Spl.]**

**CIVIL JUDGE & JMFC., LINGASUGUR.**

**OS.NO.41/2025**

**PLAINTIFF:**

Kaneez Fathima W/o Azeem Hawaldhar,  
Age: 39 years, Occ: Government Employee,  
R/o. Mudugal,  
Tq: Lingasugur. Dist: Raichur.

**( By Sri. M.D.I, Advocate. )**

**V/s**

**DEFENDANT:**

Azeem Hawaldhar S/o Rafiq Ahamad Hawaldhar,  
Age: 40 years, Occ: Private contractor civil works,  
R/o Sidharth Colony, 3<sup>rd</sup> cross, near new  
bus-stand KC Park Dharwad,  
Tq & Dist: Dharwad,

**( By Sri. R.S., Advocate. )**



|                                                  |                                     |
|--------------------------------------------------|-------------------------------------|
| Date of Institution of Suit                      | 25.03.2025.                         |
| Nature of suit                                   | Dissolution of marriage<br>(Muslim) |
| Date of commencement of<br>Recording of evidence | 30.10.2025.                         |
| Date of which judgment<br>pronounced             | 06.06.2026.                         |
| Total Duration                                   | 1 years, 2 months, 12 days          |

**Prl., Civil Judge & J.M.F.C.**  
**Lingasugur.**

### **J U D G M E N T**

This suit has been filed by the plaintiff as against the defendant for the decree of dissolution of marriage and maintenance and return of Rs.5 lakhs cash and 07 Tolas of Gold and utensils and such other reliefs.

**2. The averments made in the pleadings in brief are as under :**

It is submitted that, the marriage of the plaintiff with defendant was solemnized on 06-07-2011 at Jameeya Masjid, Dharwad, as per the customs and rituals prevailed in the Mohammedan Community. It is stated that, the defendant was taken Mehar amount of Rs.11,000/- which was given to the plaintiff at the time of marriage. After marriage the plaintiff had



been to the house of the defendant for leading marital life at Dharwad. On 14-03-2012 the marriage of the plaintiff and defendant was registered before marriage registrar office, Dharwad. Out of their wedlock the plaintiff gave birth to one male child by name Khanaz Ur Rehaman and female child by name Azma. It is submitted that, the defendant has been working as private contractor. The plaintiff is the government employee. It is stated that, the defendant harassed the plaintiff to resign her job. It is further submitted that, the plaintiff and defendant have been living separately since from 5 years. Further it is stated that, the defendant used to assault the plaintiff by forcing to withdraw the RD amount of Rs.3,00,000/- and he needs Rs.5 lakhs, for which he forced to sell gold ornaments. Further it is stated on 12-06-2024 the defendant came along with his parents and other relatives to the working place of the plaintiff and abused her in filthy language and threatened her. Inspite of several panchayath held before elders and well-wishers, but the same went in vain. Finally on 20-06-2024 the defendant has said 3 time Talaq, Talaq, Talaq and deserted from the marital life. The plaintiff and defendant are separated and living separately. Therefore the plaintiff constrained to file this suit for the grant of decree of dissolution of marriage and such other reliefs.

**3.** After registering the suit, the suit summons issued to defendant. In pursuance of summons the defendant appeared through his counsel and filed written statement on his behalf. In the written statement the defendant has admitted the marriage relationship with the plaintiff. Further the defendant has denied all



the averments made in the plaint in toto. Further it is contended that, the plaintiff already got marriage with another person. The plaintiff has suppressed the material facts and filed the false suit. For these and among other grounds, the defendant prayed to dismiss the suit with costs.

4. On the basis of the above pleadings, evidence and documents produced by the plaintiff and defendant, this court has framed the following :

**ISSUES**

1. Whether the plaintiff proves that, the defendant has failed to perform, without reasonable cause, his marital obligations as asserted ?
2. Whether the plaintiff proves that, the defendant has ill-treated and caused mental and physical cruelty and caused the desertion ?
3. Whether the plaintiff is entitled for return of amount of 5 lakh and 7 Tolas of Gold ornaments and utensils as prayed for ?
4. Whether the plaintiff and his children are entitled for permanent alimony of Rs.10,00,000/- as sought for ?
5. Whether the plaintiff is entitled for the relief of decree for dissolution of their marriage as sought for ?
6. What order or decree ?



5. In order to establish the case the plaintiff, she herself examined as PW-1 and produced 14 documents marked as Ex.P-1 to 14, closed her side evidence. During the cross-examination of the PW.1 the defendant has confronted two documents which are marked at Ex.D.1 and 2.

6. I have heard the arguments on both side. Perused the pleadings and documentary evidence adduced by the plaintiff side.

7. The findings of the court on the above issues are as under :

**Issue No.1 : In the Affirmative**

**Issue No.2 : In the Affirmative.**

**Issue No.3 : In the Negative.**

**Issue No.4 : In the Negative.**

**Issue No.5 : In the Affirmative.**

**Issue No.6 : As per final order, for the following :**

### **REASONS**

8. **ISSUES Nos.1, 2 and 5 :** Since these issues are interconnected to each other. In order to avoid the repetition these issues are taken up together for common discussion to accord common findings.

It is the definite case of plaintiff that, the marriage of the plaintiff with defendant was solemnized on 06-07-2011 at Jameeya Masjid, Dharwad, as per the customs and rituals prevailed in the Mohammedan Community. It is stated that the



defendant was taken Mehar amount of Rs.11,000/- which was given at the time of marriage. After marriage the plaintiff had been to the house of the defendant for leading marital life at Dharwad. On 14-03-2012 the marriage of the plaintiff and defendant was registered before marriage office, Dharwad. Out of their wedlock the plaintiff gave birth to the one male child by name Khanaz Ur Rehaman and female child by name Azma. It is submitted that, the defendant has been working as private contractor. The plaintiff is the government employee. It is asserted that, the defendant harassed the plaintiff to resign her job. It is further submitted that, the plaintiff and defendant are living separately since from 5 years. Further it is asserted that, the defendant used to assault the plaintiff by forcing to withdraw the RD amount of Rs.3,00,000/- and he needs Rs.5 lakhs, for which he forced to sale gold ornaments. Further it is asserted that, on 12-06-2024 the defendant came along with his parents and other relatives to the working place of the plaintiff and abused her in filthy language and threatened her. Inspite of several panchayath held before elders and well-wishers, but the same went in vain. Finally on 20-06-2024 the defendant has said 3 time Talaq, Talaq, Talaq and deserted from the marital life. Hence this suit.

9. Herein the burden is lies upon the plaintiff to prove that the defendant has failed to perform, without reasonable cause, his marital obligations for three years. In order to prove the same, the plaintiff herself examined as PW-1 and got examined 14 documents as Ex.P-1 to 14. On perusal of these documents,



Ex.P-1 is the certificate copy of the marriage Nikhanama, Ex.P.2 to 11 receipts of school, Ex.P-12 to 14 the Aadhar cards.

**10.** During the cross-examination of PW.1, she has admitted that, she did not produce any documents to show the defendant has been working as a contractor. The reply notice confronted and got marked at Ex.D.1 and the legal notice also admitted and got marked at Ex.D.2. Further admitted that, she did not mentioned the designation and salary either in plaint or chief affidavit. It is admitted that, as per Ex.D.2 the defendant has given notice to the plaintiff to come and join the company of the defendant. The PW.1 is admitted that, on 12-06-2024 she did not give any police complaint with regard to abuse and threatened made by the defendant and their relatives. It is denied that, the defendant suffering from paralysis. It is admitted that, if they wants to divorce, they have to go for Khazi for Khulanama. It is denied that, she herself take back the amount of Rs.5 lakhs and 07 Tolas of gold. She denied that, she filed false suit in order to harass the defendant.

**11.** On the other hand the defendant did not adduce any defence evidence or produced any documents on his behalf.

**12.** Having gone through the above oral and documentary evidence, in this case the defendant has admitted that relationship with the plaintiff. Further it is to be noted that there are some difference of opinion arose in between them, as such the plaintiff left out the conjugal home. Further the defendant has denied that he did not give any Talaq to the plaintiff.



13. The oral evidence as well as the documents produced by the plaintiff are not in dispute. It is to be noted that, the defendant has contended that, the plaintiff got second marriage with another person. But, to substantiate the same the defendant did not adduce any oral evidence or documentary evidence to that effect. It is an admitted fact that, the plaintiff and defendant are residing separately since from 5 years. Therefore, I have no other option, but to accept the unquestioned pleadings and evidence produced by the plaintiff to conclude that the defendant being husband of the plaintiff has neglected her and he has failed to perform, without reasonable cause, his marital obligations for three years. This assertion made in the plaint as well as in the evidence of PW-1. It is clearly admitted that, the plaintiff and defendant have been residing separately since from five years. To that effect, I have to hold that the defendant being dutiful husband has failed to perform, without reasonable cause, his marital obligations for a period of five years.

14. It is pertinent note that, the plaintiff herein has sought the relief of decree of divorce against her husband. As per **SECTION 2 muslim marriage act**, *grounds for decree for dissolution of marriage.— A woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely :—*

**(ii) that the husband has neglected or has failed to provide for her maintenance for a period of two years;**





**(iv) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years;**

**15.** Further on careful perusal of the pleadings and documents which clearly establishes the defendant being the dutiful husband of the plaintiff has neglected her for more than two years and he has failed to perform without reasonable cause, his marital obligations for a period of three years. Admittedly the defendant is living separately from the plaintiff more than five years. The defendant has harassed the plaintiff by mentally and physically. Therefore, there is no suspicious ground to disbelieve the assertion of the plaintiff. For the reasons stated above, the plaintiff has been able to prove the suit in the present form is maintainable. Consequently the plaintiff is entitled for the relief of dissolution of marriage held between plaintiff and defendant. **Hence, this court answered the above Issue No.1, 2 and 5 are in the Affirmative.**

**16. ISSUE NO.3:** It must be noted that, the plaintiff has sought for return of amount of Rs.5 lakh and 07 Tolas of Gold ornaments and utensils from the defendant. On careful gone through the material available on record, the plaintiff did not produce any documents such as receipts, etc., to show they have given Rs.5 lakhs cash and 07 Tolas of Gold and utensils to the defendant. In the absence of the documentary evidence, the oral assertion of the plaintiff could not be accepted. Except school fees receipts of the children of the plaintiff, she did not produce any gold



purchase receipts. Therefore this issue doesn't require much more discussion to hold that, the plaintiff is not entitled for the return of amount of Rs.5 Lakhs and 07 Tolas of Gold and utensils as prayed for. **Accordingly the Issue No.3 is answered in the Negative.**

**17. ISSUE NO.4:** In the plaintiff has sought for permanent alimony of Rs.10,00,000/- to her and their children. In the present suit the plaintiff has sought for dissolution of marriage on the ground of desertion. Moreover, the plaintiff has not produced any documents to show the defendant being a Civil contractor and earning income. As already discussed in issue No.1 and 2, this court held that, the plaintiff is entitled for the decree for dissolution of marriage. It must be noted that, as per **Explanation(b) of Sec.125 of Cr.P.C**, "wife" includes a women who has been divorced by, or as obtained a divorce from her husband and has not remarried. Here in this case, the defendant has contended that, the plaintiff got second marriage with another person. But, to substantiate the same, the defendant did not produced any documents to that effect. **Accordingly the Issue No.4 is answered in the Negative.**

**18. ISSUE NO.6 :** For the forgoing reasons and discussion and considering the findings on the above issues, the suit of the plaintiff is deserves to be decreed. Hence, this court proceed to pass the following ;



**ORDER**

The suit of the plaintiff is hereby partly decreed with costs.

Consequently, the marriage tie between plaintiff-Mrs.Kaneez Fathima wife and defendant-Mr. Azeem Hawaldhar husband shall stand dissolved by a decree of divorce under the **Muslim Marriage Act, 1939.**

**Draw a decree accordingly.**

( Dictated to stenographer, directly on the computer, corrected by me, & then pronounced in open court on this the 06<sup>th</sup> day of June, 2026.)

**( AMBANNA.K. )  
PRL., CIVIL JUDGE & JMFC,  
LINGASUGUR.**

**ANNEXURE**

**WITNESSES EXAMINED FOR PLAINTIFF:**

PW 1 : Kaneez Fathima

**DOCUMENTS MARKED FOR PLAINTIFF:**

Ex.P.1 : Nikhanama  
Ex.P.2 to 11 : Receipts of school.  
Ex.P.12 to 14 : Aadhar cards.



**WITNESSES EXAMINED FOR DEFENDANT:**

DW.1 : Azeem Hawaldhar.

**DOCUMENTS MARKED FOR DEFENDANT:**

Ex.D-1 : Reply notice.  
Ex.D-2 : Notice.

**Prl., Civil Judge & JMFC  
Lingasugur.**