

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). \_\_\_\_\_ OF 2024  
(Arising out of SLP(C) No. 28201/2023)

PRABHAVATHI @ PRABHAMANI

APPELLANT(S)

VERSUS

LAKSHMEESHA M.C

RESPONDENT(S)

**ORDER**

1. Leave granted.

2. The challenge herein is to an order dated 14.07.2023 passed by a Division Bench of the High Court of Karnataka whereby the amount of permanent alimony granted to the appellant-wife has been reduced from Rs. 25,00,000/- (Rupees twenty-five lakhs) to Rs. 20,00,000/- (Rupees twenty lakhs), and the respondent-husband has been directed to pay the reduced amount within three months failing which it shall carry an interest at the rate of 6% per annum.

3. As per the facts of this case, the parties herein got married on 10.11.1991, and a son was born from the wedlock on 20.08.1992. The respondent

is alleged to have deserted the appellant soon after the child was born, in 1992. He thereafter filed a petition in the year 2002 seeking divorce on the ground of cruelty. The Family Court dissolved the marriage on 03.08.2006. On an appeal made by the appellant, that decree was set aside by the High Court vide judgment dated 26.08.2010, and the matter was remanded to the Family Court. Again a decree of divorce was granted on 21.02.2011, this time on the ground of irretrievable breakdown of marriage. The appellant again approached the High Court and the aforesaid decree of divorce was set aside on 29.11.2013 and case was remanded to the Court of Additional Principal Judge, Family Court, Bengaluru.

4. Third time also luck did not favour the appellant, as the respondent secured a decree of divorce on 12.02.2016 from the Family Court. However, this time decree was granted on payment of permanent alimony of Rs.25,00,000/- (Rupees twenty-five lakhs).

5. The appellant challenged the said decree of divorce before the High Court. Unfortunately, the High Court not only dismissed her appeal vide the

impugned judgment, but has further reduced the permanent alimony of Rs. 25,00,000/- (Rupees twenty-five lakhs) to Rs. 20,00,000/- (Rupees twenty lakhs), even though no appeal challenging the quantum of permanent alimony was filed by the respondent.

6. Having heard learned counsel for the parties and on perusal of the record, it seems to us that the judicial system has been grossly injudicious to the appellant and her minor child, who has now attained majority. We say so for the reason that it is the respondent who subjected the appellant to extreme cruelty all these years, and never came forward to render any assistance for securing a better future of his own son or offered to pay even for his school education. The respondent's own mother has been staying with her daughter-in-law/appellant all these years and has come forward against him. The mechanical manner in which the Family Court kept on passing decrees of divorce against the appellant not only exhibit a lack of sensitivity, but also suggests a hidden prejudice against the appellant. The courts ought not to have accorded any premium to the respondent's own misdemeanors. The boggy of irretrievably breaking down of marriage cannot be

used to the advantage of a party who is solely responsible for tearing down the marital relationship.

7. Having held so, we cannot be oblivious of the fact that the parties are living separately since the year 1992 or so. Consequently, we sustain the decree of divorce granted by the Family Court, conditionally, with the following modifications in the impugned judgment:-

- i. The respondent is directed to pay a sum of Rs.10,00,000/-(Rupees ten lakhs) over and above the amount which he has already paid to the appellant. The amount of Rs. 10,00,000/- (Rupees ten lakhs) shall be paid within three months along with interest at the rate of 7% per annum from the date of the Ist decree of divorce, i.e. 03.08.2006. The arrears of interest shall be paid within six months in three equal installments.
- ii. The house now jointly occupied by the appellant, her mother-in-law, or her son shall remain their exclusive property and the respondent shall have no claim whatsoever in

that property and he will not interfere with the peaceful ownership and possessory rights of the appellant and her son. If the respondent owns any other immovable property, the son of the parties shall have preferential ownership rights in the same irrespective of any transfer of title by the respondent. This direction is necessitated for the reason that he (son of the parties) has an indefeasible and enforceable right to seek maintenance and adequate amount towards his school and higher education. Since the respondent has failed to discharge such obligation, there shall always be a deemed first preferential charge of arrears of such claim, over the said property.

8. In case the respondent fails to comply with any of the conditions imposed above, the decree of divorce granted by the Family Court, as upheld by the High Court, shall be deemed to have been set aside and declared null and void. Similarly, if the respondent fails to pay the above awarded amount to the appellant within the stipulated time, the Family Court is directed to take coercive action against him in accordance with law.

9. The civil appeal is allowed in above terms.

10. Pending application(s), if any, shall stand disposed of.

.....J.  
[SURYA KANT]

.....J.  
[UJJAL BHUYAN]

NEW DELHI;  
AUGUST 12, 2024.

ITEM NO.38

COURT NO.4

SECTION IV-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No. 28201/2023

(Arising out of impugned final judgment and order dated 14-07-2023 in MFA No. 3108/2016 passed by the High Court Of Karnataka At Bengaluru)

PRABHAVATHI @ PRABHAMANI

Petitioner(s)

VERSUS

LAKSHMEESHA M.C

Respondent(s)

Date : 12-08-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT  
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Mr. Shreyas Ranjan, Adv.  
Mr. Balaji Srinivasan, AOR

For Respondent(s) Mr. C.M.Angadi, Adv.  
Mr. Rameshwar Prasad Goyal, AOR

UPON hearing the counsel the Court made the following  
O R D E R

1. Leave granted.
2. The present civil appeal is allowed in terms of the signed order which is placed on the file.
3. Pending application(s), if any, shall stand disposed of.

(SNEHA DAS)  
SENIOR PERSONAL ASSISTANT

(PREETHI T.C.)  
ASSISTANT REGISTRAR