



CNR: KAHC020172562021

NC: 2026:KHC-D:15677-DB
MFA No. 101273 of 2021
C/W MFA No. 101274 of 2021

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 21ST DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE M.I.ARUN

AND

THE HON'BLE MR. JUSTICE RAGHAVENDRA SEETHARAM SRIVATSA

MISCELLANEOUS FIRST APPEAL NO. 101273 OF 2021 (FC)

C/W

MISCELLANEOUS FIRST APPEAL NO. 101274 OF 2021

IN MFA No. 101273/2021

BETWEEN:



...APPELLANT

(BY SRI. SHRIHARSH A NEELOPANT., ADVOCATE)

AND:

...RESPONDENT

(BY SRI. M.M. NAIKWADI, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 19(1) OF THE FAMILY
COURTS ACT, AGAINST THE JUDGMENT AND DECREE DATED



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19.01.2020, PASSED IN O.S. NO.11/2017 ON THE FILE OF THE PRL.
JUDGE, FAMILY COURT, DHARWAD, AT DHARWAD AND ETC.

IN MFA NO. 101274/2021
BETWEEN:

...APPELLANT
(BY SRI. SHRIHARSH A. NEELOPANT AND SRI. A.S. MALIPATIL,
ADVOCATES)

AND:

...RESPONDENT
(BY SRI. M.M. NAIKWADI, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 19(1) OF THE FAMILY
COURTS ACT, AGAINST THE JUDGMENT AND DECREE DATED
19.03.2021 PASSED IN M.C. NO.200/2016 ON THE FILE OF THE
PRL. JUDGE, FAMILY COURT DHARWAD AND ETC.

THESE APPEALS HAVING BEEN HEARD AND RESERVED ON
09.09.2026 COMING ON FOR PRONOUNCEMENT OF JUDGMENT, THIS
DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE M.I.ARUN
AND
HON'BLE MR. JUSTICE RAGHAVENDRA SEETHARAM SRIVATSA



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CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE RAGHAVENDRA SEETHARAM SRIVATSA)

These two appeals are between the same parties. The appellant in both the appeals is the husband and the respondent is the wife. Since both the appeals are interconnected with each other and have overlapping issues, we have taken up both together for common discussion and they being disposed of by this common judgment.

2. MFA No.101273/2021 arises out of the judgment and decree dated 19.01.2020 passed by the Principal Judge Family Court, Dharwad in OS No.11/2017. The present appellant-husband was the plaintiff in the suit. The prayer in the suit was for the following reliefs:

" Prayer-

- (a) *That, the Hon'ble Court be pleased to declare that in the absence of alleged marriage in strict sense of marriage, known to law, alleged to have been officiated on 22-11-2015, without consent and knowledge of the plaintiff and of his family members is null and void.*
- (b) *Costs of the plaintiff may kindly ordered.*



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(c) Any other order or orders that deemed fit and proper under the circumstances may be awarded.

A decree in the above form may kindly be awarded."

3. By the judgment and decree dated 19.01.2020, the Family Court dismissed the above suit. The plaintiff has therefore filed MFA No.101273/2021.

4. The appeal in MFA No.101274/2021 arises out of an order dated 19.03.2021 passed by the Principal Judge Family Court, Dharwad in MC No.200/2016. The petition in MC No.200/2016 was filed by the respondent herein (wife) under Section 9 of the Hindu Marriage Act, 1955 seeking a decree for restitution of conjugal rights against the husband. By the judgment and decree dated 19.03.2021, the Family Court allowed the petition and granted a decree of restitution of conjugal rights.

5. The peculiar nature of the two appeals is such that the version of the appellant and the respondent are contrary to each other's. It is therefore beneficial to note the factual plea of



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the parties before the Family Court as stated by them in their respective cases.

6. The facts, in brief, giving rise to M.F.A.No.101274/2021 are as follows:

6.1 The respondent herein, stated that she was working as a Guest Lecturer in Gangadhar Polytechnic - Institution **belonging to Dakshina Bharat Hindi Prachar Sabha in** Dharwad. the present appellant-Sri Chandrahas was also working as a Guest Lecturer in the same college. The parties developed a close friendship which bloomed into a love affair and for nearly four years they were in close contact. Thereafter, the appellant herein proposed to the respondent herein for marriage.

6.2 The Respondent herein informed her parents and the appellant herein met them. He assured that he would bring his parents and brothers and after discussion and due negotiations, an engagement ceremony was performed on 20.11.2014. It is stated that the engagement ceremony was performed at Mandara Hotel



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in Dharwad and about 150 people participated. It is the case of the respondent herein that she was married to the appellant herein on 22.11.2015 at Uma Bhavan Hall in Alnawar as per Hindu custom.

6.3 At the time of marriage, the respondent herein had given a gold chain of 12 grams and a gold ring of 5 grams to the appellant herein. Her parents had also given gold bangles of 30 grams, one gold necklace of 20 grams and a mangalsutra of 20 grams and spent ₹1,00,000/- towards marriage hall rent and also gave household articles worth ₹50,000/-.

6.4 It was alleged that after the marriage, the appellant herein did not take the respondent herein to his house but he took a house on rent in Bengaluru. It is her specific case that she stayed with the appellant herein in that rented house in Bengaluru from 09.05.2016 to 09.06.2016. It is alleged that the appellant herein started demanding additional dowry of ₹50,000/- which the respondent herein paid in installments. It is alleged that shortly thereafter the appellant herein left her and started



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avoiding her telephone calls. It is alleged that the parents of the respondent herein met the parents of the appellant herein but they put stringent conditions to take her back.

6.5 The respondent herein specifically pleaded that the appellant herein had intentionally deserted her.

6.6 The respondent herein caused a legal notice dated 19.07.2016 to be served on the appellant herein, calling upon him to take her back. Since the appellant herein did not take her back, she filed the petition in M.C.No.200/2016 seeking restitution of conjugal rights.

7. M.F.A. No.101273/2021 arises out of the suit in O.S. No.11/2017 filed by the appellant herein. The facts, in brief pertaining to this appeal are as follows:

7.1 The appellant and the respondent were both working in Gangadhar Polytechnic in Dharwad. They knew each other as colleagues, but they did not have any intimate relationship.

7.2 The appellant was surprised to receive a legal notice sent on behalf of the respondent claiming that she



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was his legally wedded wife and that he was called upon to take her back.

7.3 The appellant states in the plaint that he had received summons in M.C.No.200/2016 (filed by the respondent seeking restitution of conjugal rights), in Crl.Misc.No.151/2016 and in Crl.Misc.No.208/2016. It is necessary to note that the respondent herein had initiated those proceedings seeking maintenance and also relief under the Protection of Women from Domestic Violence Act, 2005. (for short, 'D.V.Act').

7.4 The appellant denied that he was married to the respondent. He denied the genuineness of the photographs produced by the respondent and claimed that they were all concocted. The respondent asserted that there was absolutely no relationship of husband and wife and there was no reason or occasion for him to live under common shelter at any point of time either at Bengaluru or at Alnavar with the respondent. The various proceedings initiated by the respondent against him were causing a hurdle in his service and career. He therefore



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filed the suit for declaration of nullity of marriage in OS No. 11/2017. The alleged marriage dated 22.11.2015 was without consent and knowledge of the plaintiff and of his family members and was null and void.

8. In the petition seeking restitution of conjugal rights, the wife examined herself as PW-1 and examined her mother as PW-2. She produced documentary evidence marked as Ex.P-1 to Ex. P-12. Ex.P-1 is the marriage invitation card, Ex.P-2 is the copy of the legal notice, Ex.P-3 is the postal receipt, Exs.P-4 and P-5 are the marriage photographs, Ex.P-6 is the rent agreement, Exs.P-7 and P-8 are copies of the salary certificates pertaining to the appellant, Exs.P-9 and P-10 are CDs containing video recording of the marriage ceremonies, Ex.P-11 is the CD containing engagement photographs and Ex.P-12 is the salary certificate. The appellant herein (respondent in that petition) examined himself as RW-1 and produced one document as Ex.R-1 which is a certified copy of the deposition of the wife in CrI.Misc.No.151/2016.



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9. In the suit for declaration filed by the appellant, he examined himself as PW-1 and produced documentary evidence marked as Ex.P1 to Ex.P-9. The following are the documents produced by the appellant/plaintiff.

Ex.P-1 is the certified copy of order sheet in M.C.No.200/2016, Ex.P-2 is the certified copy of petition in M.C.No.200/2016, Ex.P-3 is the certified copy of objection in M.C.No.200/2016, Ex.P-4 is the copy of legal notice, Ex.P-5 is the copy of reply notice, Ex.P-6 is the certified copy of deposition of defendant in M.C.No.200/2016, Ex.P-7 is the certified copy of deposition of defendant in Crl.Misc.No.151/2016, Ex.P-8 is the certified copy of deposition of plaintiff in Crl.Misc.No.151/2016 and Ex.P-9 is the certified copy of deposition of plaintiff in M.C.No.200/2016.

10. The respondent herein (who is the defendant in the suit) examined herself as DW-1 and produced documentary evidence marked as Exs.D-1 to Ex.D-18. The documentary evidence produced by the defendant-respondent is as follows:

Ex.D-1 is the Bank pass book, Exs.D-2 to D-8 are marks card and certificates, Ex.D-9 is bill pertaining to purchase of



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clothes, Ex.D-10 is receipt, Exs.D-11 and D-12 are marriage invitation cards, Exs.D-13 and D-14 are marriage video CDs (2), Ex.D-15 is marriage photograph CD, Ex.D-16 is engagement photograph CD, Ex.D-17 is certified copy of deposition of respondent's mother in M.C.No.200/2016 and Ex.D-18 is certified copy of deposition of witness (Priest) in Crl.Misc.No.151/2016.

11. Upon consideration of the pleadings and evidence on record, the Family Court allowed the petition in M.C.No.200/2016 filed by the respondent-wife and granted decree for restitution of conjugal rights. The same Court dealt with the suit filed by the appellant herein. On a consideration of the pleadings and evidence on record, the Family Court dismissed the suit.

12. We have heard Sri Sriharsh A Neelopanth, learned counsel for the appellant in both the appeals and Sri M. M. Naikwadi, learned counsel for the respondent in both the appeals.



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13. Sri Sriharsh A Neelopant contended that the Family Court ought not to have relied on the CDs containing video recording of the alleged marriage. While reiterating his client's stand that there was no marriage that was solemnized on 22.11.2015, learned counsel denied the presence of the appellant at the venue of the marriage on that day. His presence on the date of the engagement at the venue was also denied. He specifically contented that the Family Court committed a grave error in looking into the video recordings contained in the CDs which are electronic evidence in the absence of a certificate Under Section 65-B of the Indian Evidence Act, 1872. He relied on the judgment of a Division Bench of this Court in ***K. C. Sarita vs. A. N. Vijaykumar, HCR 2020 Kant. 17*** and a judgment of a Division Bench of the Kerala High Court in the case of ***Pramod E.K. vs. Louna V.C. (Judgment dated 14.01.2019 in OP (FC) No.513 of 2018)***.

14. Sri Neelopant drew our attention to the order sheet in the suit, particularly to the proceedings of 23.07.2019 and 03.08.2019. It is his contention that on 23.07.2019 the



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defendant produced the electronic evidence when the plaintiff's counsel was not present. The evidence had been produced along with an application I.A No.6, to which, the appellant-plaintiff had filed objections. On 03.08.2019, it was recorded that the documents had already been marked and the objections to I.A.No.6 were not pressed. The grievance made out by Sri Neelopanth is that although he had objected to the production of the electronic evidence, the same had already been marked and the Court proceeded to take them on record.

15. Opposing the appeals, Sri Naikwadi, learned counsel for the respondent submitted that the deposition of the priest in the Domestic Violence Act case, had been produced in the suit as Ex.D-18. He submitted that there was no objection by the appellant when the CDs containing the video recordings and photographs were marked. He submitted that there is no material to show that the photographs and the CDs were fabricated. Sri Naikwadi relied on Section 14 of the Family Courts Act 1984 and contented that strict compliance with the rules of evidence as to admissibility and relevancy is not applicable to proceedings before the Family Court and the



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Family Court is free to receive such documents as may be required in its opinion for deciding the case.

16. Having heard learned counsel at some length and having carefully perused the records, we have to decide these appeals on one crucial aspect which is whether there was a marriage between the appellant and the respondent on 22.11.2015.

17. In support of her case that she was engaged to the appellant on 20.11.2014 and she was married to him on 22.11.2015, the respondent has produced a copy of the marriage invitation and also photographs pertaining to the engagement ceremony and also the marriage ceremony. It is the case of the appellant that the person seen in the photographs is not himself.

18. We will now deal with the main contention of Sri.Neelopant, learned counsel for the appellant that in the absence of a certificate under Section 65-B of the Evidence Act, the Family Court ought not to have relied on the video recordings of the marriage as contended in the CDs marked as



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exhibits. In this context, it is necessary to note that the Family Court has relied on the provisions of Section 14 of the Family Courts Act. For ease of reference and convenience, Section 14 is reproduced hereunder:

"14. *Application of Indian Evidence Act, 1872.- A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872 (1 of 1872).*"

19. It is clear from a reading of Section 14 that the Family Court may receive any document as evidence that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Evidence Act. The provisions of Section 14 are clear as daylight. They are intended to have an overriding effect over the provisions of the Evidence Act in respect of relevance or admissibility of documents. Such being the intention of the Parliament, it cannot be said that the rigours of Section 65-B of the Evidence Act will be applicable when a



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piece of electronic evidence is placed before the Family Court. In our view, the Family Court in the present case was justified in invoking Section 14 to repel the argument electronic evidence was inadmissible.

20. Sri. Neelopant has relied upon the judgment of a Division Bench of this Court in the case of ***K.C.Sarita (supra)***, to support his argument that electronic evidence cannot be admitted without a certificate under Section 65-B of Evidence Act. We have examined the judgment in the case of ***K.C.Sarita (supra)***. The said judgment has no application to the facts of the present case because in that case, the provisions of Section 14 of the Family Courts Act were neither put forward nor adjudicated upon. That judgment is therefore not an authority for the proposition that in the proceedings governed under the Family Courts Act, strict rules of admissibility under Section 65-B of the Evidence Act are applicable. That the judgment is also clearly distinguishable on facts because the primary digital video recorder was produced before the Court and therefore, the question of relying on secondary evidence under Section 65-B did not really arise in that case.



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21. Sri. Neelopant has also relied on the judgment of a Division Bench of the Kerala High Court in the case of **Pramod E.K. (supra)**. On perusal of the said judgment, we find that the Kerala High Court has actually held that Section 65-B of the Evidence Act has no application to proceedings before the Family Court in view of Section 14 of the Family Courts Act. The following portions of the judgment of the Kerala High Court are relevant:

"8. The core question to be addressed in the present case is whether the CD produced before the Family Court could be admitted in evidence in the absence of certification under Section 65-B(4) of the Indian Evidence Act.

9. The argument of the learned counsel for the petitioner is that the Family Court failed to notice and to give effect to Section 14 of the Family Courts Act (for short 'the Act') which empowers the Family Courts to dispense with the application of the rigid rules of the relevancy and admissibility of evidence incorporated in the Indian Evidence Act 1872 to the proceedings before them and further erred in refusing to receive the uncertified CD in evidence. The argument, according to us, is legally sound and merits acceptance.

10. Section 14 of the Act reads as follows:



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"Application of Indian Evidence Act, 1872:- A Family court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872 (1 of 1872)."

*The words employed in the Section make it abundantly clear that, any matter, information etc., placed before a Family Court may be admitted in evidence uninhibited by the rules of relevancy and admissibility prescribed by the Evidence Act, provided the Family Court is of the opinion that the matter before it is essential for the effective resolution of the dispute in the proceeding. Understood in the light of the object and scheme of the Act, Section 14 of the Act seems to convey the legislative intention that Family Court has absolute freedom to depart from adopting the sophisticated and strict rules of relevancy and admissibility applicable to the regular civil courts in the country. The freedom of partial departure from the Evidence Act helps the Family Courts prevent valuable information and materials necessary for effective adjudication of disputes from being shut out in the enquiries and trial. In effect, the rules of relevancy and admissibility in the Evidence Act ought to be read subject only to Section 14 of the Act. In the event of any inconsistency emerging between the provisions of these two Acts, Family Courts Act 1984 alone will prevail, thanks to Section 20 of the Act. In the two decisions of the High Court of Kerala, **Treasa Bency Vs. Preceline George, (2013) (3) KLT 414** and*



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Pankajakshan Nair Vs. Shylaja, (2017) (1) KLJ 739), the uniform view taken is to the effect that the technicalities of the Evidence Act should not be imported to the proceeding before the Family Courts in view of the provisions in Section 14 of the Act. We too concur with the view expressed in the said decisions.

11. In view of the overriding effect of the Section 14 of the Act on the rules of admissibility in the Evidence Act, we hold that the CD produced before the Family Court, Thalassery is admissible in evidence, despite the fact that it was not certified as mandated by Section 65-B(4) of the Act. The contention put forth by the learned counsel for the respondent that the non obstante clause in Section 65-B (1) introduced by Act No.21 of 2000 would, however, prevail over Section 14 of the Act rendering production of certificate under Section 65-B(4) of the Evidence Act inevitable, does not merit acceptance. The words used in Section 65-B(1) sufficiently indicate that the non obstante clause does not extend outside the Evidence Act nor does it curtail the operation of any other law.”

22. While the Kerala High Court has held that Section 65-B cannot be applied for purposes of admissibility of a document in proceedings before the Family Court, the Court nevertheless proceeded to hold that mere admission of a document in evidence does not amount to its proof. The document so admitted will have to be proved by the party relying on it in accordance with the basic rules of evidence.



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Having this principle in mind, we may look at the kind of evidence that is on record in the present case.

23. On a comprehensive examination of the evidence in both the cases before us now, it is clear that the Family Court has not decided the cases only on the strength of the video recordings contained in the compact discs. There are photographs of the engagement ceremony and also of the marriage ceremony. There are also other photographs where the appellant and the respondent are in the company of each other. These photographs do point at an intimate relationship between the parties. The marriage invitation card is also produced before the Family Court.

24. The deposition of the priest in proceedings under the Domestic Violence Act is produced in the suit as Ex.D.18. The priest has deposed as to how he officiated the marriage and got the rituals conducted. Nothing worthwhile has been elicited in his cross-examination. Although, this priest is not examined as a witness in either of the two proceedings with which we are concerned in these appeals, the fact that he has



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deposed before the very same Family Court in the related proceedings between the same parties and that he has also been cross-examined on behalf of the appellant herein is of some significance. His deposition is therefore an important piece of evidence in these proceedings.

25. The respondent has produced the original passbook as Ex.D.1 pertaining to the Savings Bank Account of the appellant in Malaprabha Gramina Bank (KVG Bank). She has produced copies of his marks card and other certificates. An original invoice dated 11.11.2015 for the appellant having purchased Kurta-Set at Hubballi and the original charge slip of the Credit Card for having paid the invoice amount is also on record. Therefore, on an overall appraisal of the evidence on record, it is clear that the respondent has been able to establish that there was a marriage ceremony performed between her and the appellant.

26. Learned counsel for the appellant argued that the appellant had objected to the production of the video recordings in the form of CDs. However, the Family Court



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proceeded to rely on the said documents despite his objections. We have seen the objections to I.A No.6 filed by the appellant before the Family Court. There is no objection that the CDs could not be received in evidence for want of a certificate under Section 65-B of the Evidence Act. Therefore, there is a waiver of such objection. However, this will also pale into insignificance because we have already taken the view that Section 14 of the Family Courts Act makes Section 65-B of the Evidence Act inapplicable to the present case.

27. It was argued on behalf of the appellant that the CDs containing the video recordings were produced for the first time in 2019, in the course of the respondent evidence in the suit. The contention was that the appellant was not given copies of the electronic documents before they were marked in evidence and therefore, the appellant had no knowledge. This contention is untenable because the CDs containing the video recordings were first produced by the respondent on 18.09.2017 when she gave evidence in her petition seeking restitution of conjugal rights. The appellant gave his examination-in-chief in his suit on 24.01.2019. Therefore, the



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appellant cannot claim that he had knowledge of the video recordings till they were produced by the respondent in his suit.

28. As we have already recorded, the Family Court did not decide the two cases based only on the video recordings contained in the CDs. A copy of the house rent agreement has been produced by the respondent to support her case that the appellant and herself lived as a couple in a rented house in Bengaluru. Certain original documents like the Bank pass book, invoice for purchase of clothes and credit card charge slip have been produced by the respondent. There is no explanation on behalf of the appellant how the original documents came into the hands of the respondent if they did not reside together. It is also important to note that both the appellant and the respondent are well educated: both of them have M.Tech degrees. Although the appellant has seriously contended that the video recordings and photographs are fabricated, he has not placed any credible material in support of his contention. Except baldly denying the video recordings and his presence at the venue of engagement and marriage, the appellant has not taken any steps to have the authenticity verified. He did not



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make any application seeking a reference to the forensic science laboratory. All these circumstances indicate that the appellant failed to prove his case.

29. In our view, the cumulative effect of the entire evidence on record leans in favour of the respondent and in favour of a subsisting marriage between the parties. We are also conscious that the declaratory relief sought by the plaintiff-appellant involves proof of a negative fact. However, that does not absolve the plaintiff from the burden of laying the foundation for his case to claim the declaratory relief. In the present case, it is the specific case of the plaintiff-appellant that he was not present either at the engagement ceremony or at the marriage ceremony on the date, time and at the place as claimed by the respondent. In the cross-examination of the plaintiff, it was specifically put to him if he had produced any call detail records to show that he was not present at the engagement ceremony or at the marriage ceremony. He has agreed that he has not produced any such document. He has also agreed that he has not produced any document to show that he was in Bengaluru on those two dates. It is therefore



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clear that the appellant-plaintiff has not discharged the initial burden of proof.

30. Taking into consideration the overall facts and circumstances of the case and also the evidence on record, we are of the view that the Family Court did not commit any error in allowing the petition for restitution of conjugal rights and in dismissing the suit of the appellant.

In these circumstances, we proceed to make the following:

ORDER

- i) The appeals in MFA Nos.101274/2021 and 101273/2021 are dismissed.
- ii) The order dated 19.03.2021 passed in MC No.200/2016 by the Principal Judge Family Court, Dharwad, is upheld and the judgment and decree dated 19.01.2020 passed in OS No.11/2017 by



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the Principal Judge Family Court, Dharwad, is
upheld.

No order as to costs.

Sd/-
(M.I.ARUN)
JUDGE

Sd/-
(RAGHAVENDRA SEETHARAM SRIVATSA)
JUDGE

VB/NAA/PJ
CT: SD