**IN THE COURT OF THE HON’BLE PRINCIPAL FAMILY JUDGE,**

**FAMILY COURT AT BANGALORE**

**M.C. NO. \_\_\_\_\_/ 2018**

**BETWEEN**:

SARASWATI KUMAR

D/o Manraj Kumar

Aged 13 Years

Residing at: Swakshatra Home for Children

#682, 8th B Main, Vijaya Bank Layout,

Arkere, Off Bannerughatta Road,

Bangalore - 560076

Represented by her father

MANRAJ KUMAR ......**PETITIONER**

**AND**

LOKESH KUMAR

S/o Surkullo Kumar

Aged about 23 years

Residing at: House Number 769,

Near Bata Showroom, Neeladri Park Road,

Hulimangala, Electronic City,

Bangalore - 560100. ......**RESPONDENT**

**MEMORANDUM OF PETITION UNDER SECTION 3 OF THE PROHIBITION OF CHILD MARRIAGE ACT, 2006**

The Petitioner above-named submits as follows:

1. The present petition has been filed by the Petitioner Saraswati who is a minor, in order to seek annulment of her marriage under Section 3 of the Prohibition of Child Marriage Act, 2006 as it was solemnized when she was a minor and she was forcefully taken away from the custody of her parents. The Petitioner is represented by her father Manraj Kumar.
2. The address of the Petitioner and Respondent is as shown in the cause-title. The Petitioner may also be served through her counsel/Advocate - Jayna Kothari, D6, Dona Cynthia, 35, Primrose Road, Bangalore – 560025.

Brief Facts:

1. **T**he Petitioner and her family are residents of Bangalore. The Petitioner’s father works as a security guard and the Petitioner’s mother works as a household maid. The Petitioner, Saraswati accompanies her mother to her work occasionally. The Petitioner is presently only 12 years old.

(A copy of the age-determination certificate dated 21.02.2018 issued to the Petitioner by Fortis Hospital recording the age of the Petitioner as 11 years, 11 months and 28 days is annexed herewith and marked as **ANNEXURE-A**)

1. It is submitted that the Petitioner was residing at her parents’ residence at Electronic City, Bangalore and she was not enrolled in any school and would help her mother at home or accompany her to her workplace. On 3rd January 2017 when the Petitioner was 12 years old, the Respondent who is also a resident in the same neighbourhood, came along with another person named Ramachandran and forcefully took the Petitioner from the vicinity of her house against her will. At that time, both her parents were not in the house and she was alone. The Petitioner was kidnapped and taken to the Respondent’s brother’s house at Electronic City where a Hindu marriage ceremony as per Hindu rites and ceremonies was forcefully performed between the Petitioner and the Respondent. After the marriage, later in the night at about 2 am, the Petitioner somehow managed to escape with the help of one Gajendra, a member of the community who was known to the Petitioner, and they took her back to her parents’ house.
2. At that time, thePetitioner did not disclose the details of the events that had occurred that night to her parents as she was too scared. However, after a few days the Respondent went to the Petitioner’s house and informed her parents that there was a marriage that was solemnized between himself and the Petitioner, in the presence of his brother. The Respondent also showed photographs of the said marriage to the Petitioner’s parents, and threatened and coerced them into consenting to performing another marriage ceremony in the residence of the Petitioner.
3. Consequently**,** another formal marriage ceremony was conducted that same day, i.e. on 15th January 2017 by the Petitioner’s father, in his house, as per Hindu rites and ceremonies, solemnizing the marriage between the Petitioner and the Respondent. At that time the Petitioner’s parents had said that even after the marriage, they would keep the Petitioner in their house for 5 years with them. At that time she had not even attained puberty.
4. After this marriage, the Respondent kept harassing the Petitioner’s parents and took the Petitioner with him to his residence. The marriage was consummated at his residence. The Petitioner however was also subjected to physical violence by the Respondent and even her sister was physically abused by the Respondent.
5. Thereafter on 31.03.2017, a family friend of the Petitioner’s family, being Ajay informed CHILDLINE India Foundation of the circumstances of the Petitioner who had been married against her will at a minor age, contrary to the provisions of the Prohibition of Child Marriage Act, 2006. CHILDLINE, which rescued the Petitioner from her sister’s matrimonial home. The Petitioner then spent 5 days in a State-run home for girls, after which she was transferred to the care of Swakshatra Home for Children. The Petitioner is currently under the care of Swakshatra Home for Children, and is residing at their accommodation at #682, 8th B Main, Vijaya Bank Layout, Arkere, Off Bannerughatta Road, Bangalore . Swakshatra is taking care of her needs and facilitating remedial literacy. This is being done with the full consent and knowledge of the Petitioner’s parents.

(A copy of the Registered Trust Deed for Sawakshatra Trust is annexed herewith and marked as **ANNEXURE-B**)

(A copy of the rental agreement in favour of Swakshatra Trust as proof of current addresses as stated above is annexed herewith and marked as **ANNEXURE-C**)

(A copy of the Transfer order dated 04.04.2017 directing the transfer of the Petitioner to the case of Swakshatra Trust is annexed herewith and marked as **ANNEXURE-D**)

1. It is submitted that the Petitioner was forced and compelled into this marriage, without her wish and was enticed away from the guardians. Hence this marriage would be void under Section 12 of the Prohibition of Child Marriage Act 2006. The Petitioner also hereby wishes to exercise her option under Section 3 of the PCMA to have the said marriage declared void.
2. The cause of action for this petition arose on 03.01.2017 when the Respondent and the Petitioner were married at the residence of the Respondent’s brother and again when they were married at the Petitioner’s residence on 15.01.2017, the Petitioner being 12 years old at the time of both ceremonies and when the marriage was consummated and is a continuing cause of action.
3. The Prohibition of Child Marriage Act, 2006 (PCMA) was enacted by the Parliament and brought into force on 01.11.2007 in order to counter the increased instances of the social evil of child marriages that were rampant across the country. As per Section 2(a) of the PCMA, a child in the case of females means a girl child who has not completed 18 years of age. Further, under Section 3 of the PCMA, a child marriage is voidable at the instance of the contracting party who was a child at the time of the marriage. In the present case, the Petitioner was merely 12 years of age at the time of both marriages and is filing the present petition through her father, the Petitioner so as to exercise the option available under Section 3 of the PCMA.
4. This Hon’ble Court has jurisdiction to decide the matter as the marriage between the Petitioner and the Respondent was solemnized within the jurisdiction of this Hon’ble Court and the Petitioner and Respondent reside within the jurisdiction of this Hon’ble Court.
5. There is no other litigation pending in this Hon’ble Court or any other Court regarding the same cause of action.
6. The prescribed court fee is paid under the Karnataka Court Fees Act and Suit Valuation Act, 1958.

**PRAYER**

WHEREFORE, the Petitioner prays that this Hon’ble Court may be pleased to pass a judgment and decree:

1. Declaring the marriage solemnized between the Petitioner and Respondent on 03.01.2017 at Electronic City, Bangalore, as per Hindu rites and ceremonies, as being null and void under Section 3 of the Prohibition of Child Marriage Act, 2006 and;
2. Pass such order/grant such other relief/s this Hon’ble Court deems fit in the interest of justice.

Advocate for Petitioner Petitioner

Place: Bangalore

Date:

VERIFICATION

I, Manraj Kumar, the authorized guardian of the above-named Petitioner, do solemnly state and affirm that the contents of para 1 to 18 are true to the best of my knowledge, information and belief.

Advocate for Petitioner Petitioner

(Through her Father)

Place: Bangalore

Date: 29.03.208