

FLORIDA THIRD DISTRICT COURT OF APPEAL

Payal Khare v. Pankaj Khare

Khare · No. 3D25-0151 · Decided October 29, 2025

SUMMARY

The Florida Third District Court of Appeal affirmed the dismissal of Payal Khare’s dissolution of marriage action for lack of subject matter jurisdiction, lack of personal jurisdiction, and forum non conveniens. The court held that the appellant’s failure to provide a transcript prevented review of the trial court’s factual findings, and that her in rem jurisdiction argument was not preserved for appellate review.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Lindsey, J.; Scales, C.J.; Lobree, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	October 29, 2025
DOCKET	3D25-0151
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final order of the Circuit Court for Miami-Dade County granting the appellee's motion to dismiss the appellant's dissolution of marriage action for lack of subject matter jurisdiction, lack of personal jurisdiction, and forum non conveniens.
STANDARD OF REVIEW	The court applied the appellate-record rule requiring affirmance when the record is inadequate to review factual or legal challenges to the trial court's ruling, and the preservation rule requiring issues and specific legal grounds to be presented to the lower court. The opinion does not state a separate standard of review for the dismissal grounds.
PRECEDENTIAL VALUE	Published opinion; precedential status is identified as published, subject to the stated rehearing-finality notice.
PARTIES	Payal Khare v. Pankaj Khare

TOPICS

dissolution of marriage

subject matter jurisdiction

personal jurisdiction

forum non conveniens

preservation of error

PRACTICE AREAS

family law

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the appellate court could review challenges to the trial court's jurisdictional and forum non conveniens dismissal without a transcript of the evidentiary hearing on which the order relied.
2. Whether the appellant could obtain appellate review of the trial court's alleged failure to exercise in rem jurisdiction when the issue was not raised below.
3. Whether the asserted error was fundamental error excusing preservation.

HOLDINGS

1. When an appellant challenges factual issues or claims that the trial court misconceived the law, but fails to provide the transcript of the proceedings on which the challenged order relied, the appellate court cannot properly resolve the issues and is constrained to affirm.
2. An issue not presented to the lower court, including the specific legal argument or ground advanced on appeal, is generally waived and will not be considered on appeal.

KEY QUOTATIONS

“Without a record of the trial proceedings, the appellate court can not properly resolve the underlying factual issues so as to conclude that the trial court’s judgment is not supported by the evidence or by an alternative theory. Without knowing the factual context, neither can an appellate court reasonably conclude that the trial judge so misconceived the law as to require reversal.” (at 1-2)

“In order to be preserved for further review by a higher court, an issue must be presented to the lower court and the specific legal argument or ground to be argued on appeal or review must be part of that presentation if it is to be considered preserved.” (at 2)

FACTUAL BACKGROUND

Payal Khare filed an action for dissolution of marriage. After an evidentiary hearing, the trial court granted Pankaj Khare's motion to dismiss for lack of subject matter jurisdiction, lack of personal jurisdiction, and forum non conveniens. Khare did not provide a transcript of the evidentiary hearing, and she raised the trial court's alleged failure to exercise in rem jurisdiction for the first time on appeal.

PROCEDURAL HISTORY

The circuit court held an evidentiary hearing and entered a final order dismissing Payal Khare's dissolution of marriage action on jurisdictional and forum non conveniens grounds. Khare appealed, challenging the trial court's legal standards, factual findings, evidentiary weighing, and failure to exercise in rem jurisdiction.

Because she did not provide a transcript of the evidentiary hearing and had not raised the in rem issue below, the Third District affirmed.

DISPOSITION

affirmed

CASES CITED

- Applegate v. Barnett Bank of Tallahassee, 377 So. 2d 1150, 1152 (Fla. 1979)
- Sunset Harbour Condo. Ass'n v. Robbins, 914 So. 2d 925, 928 (Fla. 2005)
- Tillman v. State, 471 So. 2d 32, 35 (Fla. 1985)
- Coleman Co. v. Cargil Int'l Corp., 731 So. 2d 2, 4 (Fla. 3d DCA 1998)
- Sanford v. Rubin, 237 So. 2d 134, 137 (Fla. 1970)

OPINION

Payal Khare v. Pankaj Khare

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed October 29, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D25-0151 Lower Tribunal No. 23-16387-FC-04 _____ Payal Khare, Appellant, vs. Pankaj Khare, Appellee. An Appeal from the Circuit Court for Miami-Dade County, Spencer Multack, Judge. Payal Khare, in proper person. Abramowitz and Associates, and Jordan B. Abramowitz and Lily C. Glickstein, for appellee. Before SCALES, C.J., and LINDSEY, and LOBREE, JJ. LINDSEY, J. Appellant, Payal Khare, appeals the trial court's final order granting Appellee's, Pankaj Khare, motion to dismiss Appellant's dissolution of marriage action for lack of subject matter jurisdiction, lack of personal jurisdiction, and forum non conveniens. Appellant argues the trial court's order misapplies legal standards, mischaracterizes evidence, fails to properly weigh evidence, and improperly relies on Appellee's claims. But, Appellant failed to provide us a transcript of the evidentiary hearing that the trial court's order relies on. See Applegate v. Barnett Bank of Tallahassee,

377 So. 2d 1150, 1152 (Fla. 1979) ("Without a record of the trial proceedings, the appellate court can not properly resolve the underlying factual issues so as to conclude that the trial court's judgment is not supported by the evidence or by an alternative theory. Without knowing the factual context, neither can an appellate court reasonably conclude that the trial judge so misconceived the law as to require reversal."). So we are constrained to affirm. Appellant also argues that the trial court improperly dismissed her petition because the trial court neglected exercising its in rem jurisdiction. Not only are we unable to glean from the deficient record why the trial court did not use its in rem jurisdiction, but Appellant also failed to raise the issue below, thus waiving it. See Sunset Harbour Condo. Ass'n v. Robbins, 914 So. 2d 925, 928 (Fla. 2005)

(“As a general rule, it is not appropriate for a party to 2 raise an issue for the first time on appeal. . . . ‘In order to be preserved for further review by a higher court, an issue must be presented to the lower court and the specific legal argument or ground to be argued on appeal or review must be part of that presentation if it is to be considered preserved.’”) (citations omitted) (quoting *Tillman v. State*, 471 So. 2d 32, 35 (Fla. 1985)). Absent fundamental error, which is not present here, we are compelled to affirm.¹ Affirmed. 1 “Fundamental error, which can be reviewed on appeal without preservation in the trial court, is error which goes to the foundation of the case or the merits of the cause of action.” *Coleman Co. v. Cargil Int’l Corp.*, 731 So. 2d 2, 4 (Fla. 3d DCA 1998) (citing *Sanford v. Rubin*, 237 So. 2d 134, 137 (Fla.1970)). 3