

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2006

[ARISING OUT OF SLP (CIVIL) NO.19059 OF 2005]

AMBUJAMMA

... APPELLANT

VERSUS

RAJAMMA & ORS.

... RESPONDENTS

O R D E R

Leave granted.

The dispute between the parties is that of a status, namely, as to who is the legally wedded wife of late K. Nagappa.

Mr. G.V. Chandrashekar, learned counsel appearing on behalf of the Appellant has taken us through various documents in support of his submission that Respondent No.1 at least was aware of the passing of the order in

August, 2004 and thus, there was absolutely no reason as

to why she filed an application for recall thereof

dismissing the appeal in February, 2005. It has been

contended that relying on the basis of the decree passed

in her favour, the Appellant herein, had to initiate

proceedings for recovery of the retiral benefits payable

to the said K. Nagappa and in fact the decree stands

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executed. In paragraph 12 of the impugned judgment, the

High Court noticed :

"Merely because, the decree is executed it cannot be said that the Civil Petition is not maintainable in law. The suit filed by the 1st respondent against the Petitioner is for declaration that she is the legally wedded wife of the deceased K. Nagappa. On the other hand, it is the case of the Petitioner that she is the legally wedded wife of late K. Nagappa and that she had three children. The Court below has granted a decree declaring that the 1st respondent is the legally wedded wife of deceased K. Nagappa and further declared that she is entitled to claim pension. Even if the pension amount is paid to the 1st respondent, still the declaration that the respondent

No.1 is a legally wedded wife of deceased K.

Nagappa still remains."

Although ordinarily a Court might not have interfered

with the impugned order proceeding on a strict

interpretation of law that for condonation of delay

sufficient cause has to be shown therefor but to share

the concern of the High Court that the parties claim

themselves to be the legally wedded wives of the said

Nagappa, we are of the opinion that the matter requires

adjudication. We are, furthermore, of the opinion that

interest of justice will be sub-served, if
in

modification of the impugned order I.A. No.1 Of 2005

filed before the High Court in RFA No.657 of 1999 be

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directed to be allowed subject to the condition that any

amount received by Appellant pursuant to and in

furtherance to the decree passed in her favour till

September, 2006 shall not be recovered by the authorities

concerned.

The Appeal is disposed of with the afore-mentioned

directions.

.....J.

(S.B. Sinha)

.....J.

(Dalveer Bhandari)

New Delhi;

September 22, 2006.

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ITEM NO.208

COURT NO.8

SECTION IVA

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

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).19059/2005

(From the judgement and order dated 12/04/2005 in CP No. 260/2005 &
RFA No. 657/1999 of The

HIGH COURT OF KARNATAKA AT BANGALORE)

AMBUJAMMA

Petitioner(s)

VERSUS

RAJAMMA & ORS.

Respondent(s)

(With prayer for interim relief and office report)

(for final disposal)

Date: 22/09/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Petitioner(s) Mr. G.V. Chandrashekar, Adv.

Ms. Anjana Chandrashekar, Adv.

For Respondent(s) Mr. D.M. Nargolkar, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal stands disposed of in terms of the signed order.

dwaj) (K.K. Chawla)

(Pushap Lata Bhar

ster Court Master

Court Ma

[Signed order is placed on the file]