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ITEM NO.35

COURT NO.13

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).22434/2013

(From the judgement and order dated 12/03/2013 in MCC No.316/2012 of The  
HIGH COURT OF CHHATTISGARH AT BILASPUR)

K. SWARNKAMALA

Petitioner(s)

VERSUS

K. SRINIVAS RAO(D) TH. LRS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 16/08/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIL R. DAVE

HON'BLE MR. JUSTICE DIPAK MISRA

For Petitioner(s) Mr. A. Subba Rao,Adv.

For Respondent(s)

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

I.A. No. 1/2003 stands allowed.

Leave granted.

The appeal is allowed in terms of the Signed Order.

|(Rajni Mukhi)  
|SR. P.A.

|(Sneh Bala Mehra)  
|Court Master

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(The signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 6955 OF 2013  
(Arising out of SLP (C) No. 22434 of 2013)

K. Swarnkamala

... Appellant

Versus

K. Srinivas Rao (D) Th. LRs.

... Respondents

O R D E R

I.A. No. 1/2003, an application for transposing Respondent No. 1, Mr. Vinay Kumar as petitioner No. 2, stands allowed.

Cause title be amended accordingly.

Leave granted.

This appeal by special leave has been preferred by the appellant-wife against the impugned order dated 12.3.2013 whereby the High Court of Chhattisgarh at Bilaspur declined to set aside the abatement and accordingly dismissed the M.A. No. 771/2002.

It is worthy to note that the said appeal, i.e., M.A. No. 771/2002 was preferred by the wife of the deceased respondent Shri K. Srinivas Rao.

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The petition bearing M.J.C. No. 3 of 2002 was filed to set aside the ex-parte decree to set aside the order dated 14.1.2002 whereby the Additional District Magistrate, Korba had dismissed the said petition preferred under Order 9, Rule 13 of the C.P.C.

Mr. A. Subba Rao, learned counsel for the appellant, the appellant-wife and her son are present in the Court.

We have been apprised that during the life time of the husband, the wife was staying with him and during that period she had suffered the ex-parte decree. The learned counsel has submitted that the decree deserves to be set aside.

Having gone through the facts and circumstances of the case and having been apprised of the difficult situation faced by the wife and the son, we think it appropriate to set aside the ex parte decree so that the status of the wife is restored and she does not suffer unnecessary ignominy in life and her son is not put to any social humiliation.

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In the result, the appeal is allowed and the impugned order passed by the High Court and the ex parte judgment and decree

granting divorce by the trial court are set aside.

.....J.  
[Anil R. Dave]

[Dipak Misra]  
New Delhi  
August 16, 2013.

.....J.