

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF MAY, 2016

BEFORE

THE HON'BLE MR.JUSTICE P.S. DINESH KUMAR

WRIT PETITION No.41039/2015 (GM-CPC)

BETWEEN:

RATHANAMMA W/O LATE HANUMAIAH
AGED ABOUT 49 YEARS
R/O HALAHALLI VILLAGE
MANDYA TQ & DIST - 571401 ...PETITIONER

(BY SRI.RAJA L, ADVOCATE)

AND

D.H.HANUMESH S/O LATE HANUMAIAH
AGED ABOUT 21 YEARS
R/O DUGGANAHALLI VILLAGE
KIRUGAVALU HOBLI
MALAVALLI-TQ
MANDYA DISTRICT - 571401 ...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE
ORDER PASSED BY THE LEARNED SENIOR CIVIL JUDGE &
JMFC, MALAVALLI, IN P & SC NO.1/2012 DT.18.6.2015, I.A.III.
VIDE ANNEX-D TO THE W.P.

THIS PETITION COMING ON FOR PRELIMINARY HEARING
THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This writ petition is directed against the order dated 18.6.2015 in P & SC No.1/2012 on the file of the Senior Civil Judge and JMFC, Malavalli, rejecting I.A.III filed by the petitioner under Order 1 Rule 10(2) of CPC.

2. Heard Shri L.Raju, learned Counsel appearing for the petitioner.

3. Petitioner got filed the instant I.A.III in the proceedings before the court below seeking to be impleaded in the proceedings on the premise that she is the wife of deceased Hanumaiah. The said application was resisted by the respondent who is the adopted son of Hanumaiah, on the premise that the marriage of the petitioner with late Hanumaiah had stood dissolved vide judgment and order dated

6.10.2001 in MC No.1/2001 on the file of the Principal Civil Judge, Sr.Dn., Mandya, in a petition filed under section 13(b) of the Hindu Marriage Act. It was also contended that in an earlier MVC proceedings in MVC No.32/2011, a similar application was filed by the petitioner and the same was rejected. Being aggrieved by the said order, the petitioner herein had filed a writ petition in W.P.No.50252/2014 wherein this Court had observed that marriage between the petitioner and Hanumaiah was dissolved long before the death of Hanumaiah and accordingly, refused to interfere with the order passed by the Court below in the said writ petition. By taking note of these aspects and also the fact that the petitioner had received Rs.50,000/- as permanent alimony from deceased Hanumaiah and relinquished all her rights in

respect of movable and immovable properties, the trial Court has rejected the application.

4. Assailing the correctness of the impugned order, the learned Counsel for the petitioner contends that notwithstanding the dissolution of marriage, there is no bar for impleadment and to contest the petition.

5. In view of the fact that the marriage between the petitioner and deceased Hanumaiah has stood dissolved and the petitioner has received a permanent alimony of Rs.50,000/- from deceased Hanumaiah and relinquished all her rights in respect of movable and immovable properties, I find no error in the impugned order rejecting the application.

The writ petition fails and stands dismissed.

No costs.

**Sd/-
JUDGE**

Yn.