

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 23<sup>RD</sup> DAY OF DECEMBER, 2010

PRESENT

THE HON'BLE MR.JUSTICE RAM MOHAN REDDY

AND

THE HON'BLE MR.JUSTICE A.S.BOPANNA

M.F.A.No.11145 OF 2010

AND

MISC.CVL.Nos.23598/10, 23599/10 & 23600/10

BETWEEN:

SMT. G.NAGARATHNA,  
D/O M.GANGAPPA  
AGED ABOUT 46 YEARS  
R/AT DOOR NO.165/1,  
4<sup>TH</sup> CROSS, KRISHNANAGAR,  
BESIDE THIRUMALA INDUSTRIES  
S.I.T. EXTENSION  
TUMKUR.

... APPELLANT  
(COMMON)

(BY SRI H.ASHOK KUMAR, ADV.)

AND

SRI B.P.PRAKASH,  
S/O B.K.PUTTASHANKARAIH  
AGED ABOUT 46 YEARS  
R/AT NO.221  
TUDA LAYOUT, SIRAGATE  
TUMKUR

... RESPONDENT  
(COMMON)

*JK*

THIS MFA IS FILED UNDER SECTION 28 OF THE HINDU MARRIAGE ACT, AGAINST THE JUDGMENT AND DECREE DATED 5.6.2010 PASSED IN M.C.NO.141/09 ON THE FILE OF PRINCIPAL CIVIL JUDGE (SR.DN.) & CJM, TUMKUR ALLOWING THE PETITION FILED U/S 13 OF HINDU MARRIAGE ACT FOR DIVORCE.

MISC.CVL.NO.23598/10 IS FILED UNDER SECTION 5 OF THE LIMITATION ACT FOR CONDONATION OF DELAY.

MISC.CVL.NO.23599/10 IS FILED UNDER SECTION 151 OF CPC FOR DIRECTION.

MISC.CVL. NO.23600/10 IS FILED UNDER ORDER 41 RULE 5 OF CPC R/W UNDER SECTION 151 OF CPC FOR STAY.

THIS MFA AND MISC.CVL's COMING ON FOR ORDERS THIS DAY, RAM MOHAN REDDY, J., DELIVERED THE FOLLOWING:

### J U D G M E N T

On an allegation that the petitioner was not served with the notice of proceedings in M.C.No.141/09 before the Civil Judge (Sr.Dn.) and JMFC, Tumkur, though placed exparte leading to the order dated 5.6.2010 dissolving the marriage as between the parties by a decree of divorce, has presented this appeal.

2. At the request of the learned counsel for the appellant appeal is dismissed as withdrawn reserving



liberty to the petitioner to file a Miscellaneous application to set aside the exparte decree before the trial court.

3. In that view of the matter, Misc.W.No.23598/10, 23599/10 & 23600/10 are unnecessary and are accordingly rejected.

Sd/-  
JUDGE

Sd/-  
JUDGE

KLY/