

21ms

24-7-99

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THE 5TH DAY OF JUNE 1998

PRESENT

THE HON'BLE MR. JUSTICE B. PADMARAJ

AND

THE HON'BLE MR. JUSTICE T.N. VALLINAYAGAM

REGULAR FIRST APPEAL NO.39/1993

Smt. Shakuntalabai.

..APPELLANT.

(By Sri. M.M. Jagirdar, Adv. for Appellant)

-Vs-

Annarao & Others.

..RESPONDENTS.

\* \* \*

R.F.A. filed u/s.96 of the CPC against the Judgment and decree dt.5.4.91 passed in O.S.NO.189/86 on the file of the Pri.Civil Judge at Gulbarga dismissing the suit for partition and separate possession.

I.A.IV FOR CONDONATION OF DELAY IN FILING

THE RECALLING APPLICATION:

The Advocate for appellant has filed an application u/s.5 of the Limitation Act, accompanied by an affidavit praying that this Hon'ble Court be pleased to order to condone the delay in filing the application.

I.A.V FOR RECALLING THE ORDER DATED 25.2.97:

The Advocate for appellant has filed an application u/s 151 of CPC accompanied by an affidavit praying that this Hon'ble Court be pleased to order to recall the Order dated 25.2.97.

This R.F.A. along with I.A.IV & I.A.V coming on for Orders this day, the Hon'ble Mr. TNVJ made the following:-

ORDER

It is not fair on the part of an Advocate to file an affidavit in the way he has filed. Even the averment is that the Advocate on record asked the present Advocate to look after the matter and mistakenly he omitted to look after the matter. There is no power for an agent to engage another agent in the absence of specific authority, in law. The application as it stands today has no merit. Therefore, the same is dismissed.

However, liberty is given to the Advocate for the Appellant to file an affidavit from the party and move the matter afresh. I.A.NOs.IV and V dismissed.

Sd/-

JUDGE

Sd/-

JUDGE.

