

ITEM NO.60

COURT NO.16

SECTION IV-A

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

SPECIAL LEAVE PETITION (Civil) Diary No(s). 36933/2025

[Arising out of impugned final judgment and order dated 30-01-2014 in RFA No. 1549/2003 18-02-2025 in RP No. 100119/2014 passed by the High Court of Karnataka Circuit Bench at Dharwad]

**VASANTALATA KOM VIMALANAND
MIRJANKAR REP. BY G.P.A. HOLDER**

Petitioner(s)

VERSUS

DEEPA MAVINKURVE & ORS.

Respondent(s)

WITH

Diary No(s). 37237/2025 (IV-A)

**IA No. 193451/2025 - CONDONATION OF DELAY IN FILING
IA No. 193454/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT
IA No. 201519/2025 - EXEMPTION FROM FILING O.T.
IA No. 193452/2025 - EXEMPTION FROM FILING O.T.
IA No. 201518/2025 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES**

Date : 01-09-2025 This petition was called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE N.V. ANJARIA**

For Petitioner(s) :

**Ms. Kiran Suri, Sr. Adv.
Mr. S.J. Amith, Adv.
Ms. Aishwarya Kumar, Adv.
Dr. Mrs. Vipin Gupta, AOR**

Mr. Devadatt Kamat, Sr. Adv.
Mr. Javedur Rahman, AOR
Mr. Saharul Alam Laskar, Adv.
Mr. Ajay Desai, Adv.

For Respondent(s) :

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

SLP (C) Diary No(s). 36933/2025

1. Delay condoned.
2. Present Special Leave Petition ('SLP') has been filed challenging the judgment and order dated 30th January 2014 passed in RFA 1549/2003 and order dated 18th February 2025 passed by the High Court of Karnataka, Dharwad Bench in Review Petition No.100119/2014, whereby the High Court has dismissed the Review Petition.
3. It is pertinent to mention that an earlier SLP being SLP(C) 12831/2014 challenging the order dated 30th January 2014 passed in RFA 1549/2003 has already been dismissed by this Court vide order dated 1st July 2014. The said order reads as under:-

"Heard learned counsel for the petitioner.

No ground for interference is made out in exercise of our jurisdiction under Article 136 of the Constitution of India. The special leave petition is dismissed."

4. However, learned senior counsel for the Petitioner submits that this Court has referred the issue as to the maintainability of filing of SLP against which an earlier SLP has been dismissed without liberty to the larger bench in *S. Narahari and Ors. vs.*

S.R. Kumar and Ors., (2023) 7 SCC 740 by recording as under:-

"36. In simpler terms, this would essentially mean that even in cases where the special leave petition was dismissed as withdrawn, where no reason was assigned by the Court while dismissing the matter and where leave was not granted in the said special leave petition, the said dismissal would not be considered as laying down law within the ambit of Article 141 of the Constitution of India.

37. If a dismissal of special leave petition by way of a non-speaking order is not considered law under Article 141 of the Constitution of India, the same also cannot be considered as res judicata, and therefore, in every such dismissal, even in cases where the dismissal is by way of a withdrawal, the remedy of filing a fresh special leave petition would still persist. Further, if on the said reasoning, a remedy to file a review in the High Court is allowed, then the same reasoning cannot arbitrarily exclude the filing of a subsequent special leave petition.

38. We are painfully aware of the fact that such an interpretation, if expanded beyond the specific scope of filing a review in the High Court is allowed, it would open the floodgates of litigation, and would essentially mean that every dismissal of special leave petition must be accompanied with reasons declaring the same."

5. She also submits that the High Court has committed an error in dismissing the Review Petition only on the ground that the matter cannot be reheard on merit in view of the bar under Section 114 of the Code of Civil Procedure, 1908 ('CPC') as this Court had declined to interfere with the judgment and order dated 30th January 2014 passed in RFA 1549/2003. In support of her submission, she relies upon the judgment passed by this Court in *Kunhayammed and Ors. vs. State of Kerala and Anr., (2000) 6 SCC 359* and *Khoday Distilleries Ltd. and Ors. vs. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd. Kollegal, (2019) 4 SCC 376*.

6. Having heard learned senior counsel for the petitioner, the position that emerges is that admittedly, an SLP challenging the order dated 30th January 2014 passed in RFA 1549/2003 has been dismissed by this Court on the ground that no ground for interference is made out in exercise of jurisdiction under Article 136 of the Constitution. This Court is of the view that entertaining the present SLP *qua* the order dated 30th January 2014 would amount to sitting in appeal over the order dated 1st July 2014 passed by a Co-ordinate Bench of this Court.

7. This Court is of the opinion that reliance placed by the learned senior counsel for the Petitioner in *S. Narahari* (supra) is misplaced as in the said case, initial SLP had been dismissed as withdrawn and not dismissed. The judgment in *Kunhayammed* (supra) and *Khoday Distilleries* (supra) also nowhere state that the Petitioner is entitled to a '*second bite at the cherry*' by filing a subsequent SLP challenging the order of the High Court against which an SLP has already been dismissed. The aforesaid judgments only state that a review petition is maintainable before the High Court after dismissal of the SLP by a non-speaking order.

8. This Court is further of the opinion that under Order XLVII Rule 7 CPC, no appeal lies against the order passed by the High Court dismissing the review petition. To circumvent this provision of law, another SLP has been filed challenging the main judgment and order dated 30th January, 2014 against which SLP has already been dismissed. In *T.K. David vs. Kuruppampady Service Cooperative*

Bank Limited & Ors., (2020) 9 SCC 92, a three Judges Bench of this Court has held, "The rationale for not entertaining a special leave petition challenging the order of the High Court rejecting the review petition when main order in the writ petition is not challenged can be easily comprehended. Against the main judgment SLP having been dismissed earlier the same having become final between the parties cannot be allowed to be affected at the instance of the petitioner. When the main judgment of the High Court cannot be affected in any manner, no relief can be granted by this Court in the special leave petition filed against order rejecting review application to review the main judgment of the High Court. This Court does not entertain a special leave petition in which no relief can be granted...."

9. Since the facts in the present case are not *pari materia* to the facts in *S. Narahari* (supra) where the matter has already been referred to a larger Bench, this Court is of the view that no reference and/or no tagging is called for.

10. In any event just because the issue has been referred to a larger Bench does not mean that the Court in the interregnum will not abide by the binding law in terms of Article 141 of the Constitution. This Court is of the opinion that the present SLP against main order dated 30th January, 2014 is an abuse of process of Court as it amounts to re-litigation and to entertain the present SLP would amount to challenging one of the foundation pillars of Rule of law namely finality in litigation. Accordingly,

the present SLP is dismissed. Pending application(s), if any, shall stand disposed of.

Diary No(s). 37237/2025

1. List on 08.09.2025.

(RASHI GUPTA)
COURT MASTER (SH)

(AKSHAY KUMAR BHORIA)
COURT MASTER (NSH)