

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

THE HON'BLE MR. JUSTICE RAVI MALIMATH

AND

THE HON'BLE MR. JUSTICE B. M. SHYAM PRASAD

REGULAR FIRST APPEAL NO.831 OF 2013 (SP) DATED:13-02-2019

SMT. BHAGYA DAUGHTER OF SRI HANUMEGOWDA AND OTHERS VS. SMT. JAYALAKSHMI WIFE OF SRI C. KRISHNA, AND OTHERS

JUDGMENT

RAVI MALIMATH, J.,

Memo for withdrawal of the appeal is filed on 31-1-2019 signed by the three appellants. The memo filed by the new counsel does not have a ' No Objection Certificate ' from the earlier counsel. On questioning, he places reliance on the Judgment of this Court passed in MFA No.6526 of 2013 on 2-12-2016 (KARNATAKA POWER TRANSMISSION CORPORATION LIMITED., VS. M.RAJASHEKAR AND OTHERS) and submits that it is not necessary to obtain a No Objection Certificate to file a vakalath.

We are unable to accept the submission. Reliance placed by the counsel on para- 8 of the Judgment is misconceived. The Division Bench held therein that ' No Objection Certificate ' is not required only in a situation where the Advocate is discharged by his client in a manner known to law, only then a new counsel can enter vakalath without a ' No Objection Certificate '.When the earlier counsel still holds a valid vakalath, the question of a new Advocate entering the case cannot be accepted. Therefore, the counsel has misread the aforesaid Judgment.

2. Under these circumstances, we hold that, until and unless a ' No Objection Certificate ' is obtained from the existing Advocate who still holds the vakalath, no new counsel can enter appearance on record.

3. It is presently submitted that the earlier counsel has since furnished his ' No Objection Certificate ' to the new counsel. Therefore the new vakalath of the appellants ' is accepted. Consequently, the memo for withdrawal of the appeal is accepted. The appeal is dismissed as withdrawn.