

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.11.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

C.M.A.No.1171 of 2015 and
M.P.Nos.1 & 2 of 2015

V.Suganthi

... Appellant/Plaintiff

Vs.

1.K.Veerapandian

2.The Chief General Manager,
BSNL Office No.78,
Purasawakkam High Road,
Chennai - 600 010.

3.The Accounts Officer,
Pay and Accounts North West,
Periyar Buildings,
Near Thinathanthi Office,
E.V.K. Sampath Salai, Vepery,
Chennai - 600 007.

...Respondents/Defendants

Civil Miscellaneous Appeal filed under Order 43 Rule 1 (r) of the Code of Civil Procedure Code against the fair and decreetal order dated 28.05.2015 made in I.A.No.2754 of 2011 in O.S.No.168 of 2011 on the file of the III Additional Family Court, Chennai under Section 19 of the Family Courts Act, 1984.

For Appellant : Mr.K.Raja

For Respondents : Mr.S.Madhusudhanan (R1)

No appearance - R2 & R3

J U D G M E N T

Challenging the order passed in I.A.No.2754 of 2011 in O.S.No.168 of 2011 on the file of the III Additional Judge, Family Court, Chennai, the plaintiff has filed the above Appeal.

2.The plaintiff filed the suit in O.S.No.168 of 2011 for permanent injunction restraining the defendants 2 & 3 from settling the retirement benefits to the 1st defendant until the 1st defendant settles the permanent alimony towards full and final settlement. In the said suit, the plaintiff also filed an application in I.A.No.2754 of 2011 seeking for an order of interim injunction restraining the respondents 2 & 3 from settling the retirement benefits to the 1st respondent without first settling the permanent alimony payable to her.

3.The 1st defendant filed his counter and contested the application. The Family Court, taking into consideration the case of both parties, dismissed the application on the ground that if any interim order is passed in the application, it would affect the disposal of the main suit. Aggrieved over the said order, the plaintiff has filed the above Appeal.

4.When the matter came up for admission on 17.06.2015, this Court, while ordering notice to the respondents, granted an order of interim injunction. The order of interim injunction is in force for nearly two and a half years.

5.When the matter was taken up for hearing, the learned counsel on either side submitted that the trial Court may be directed to dispose of the suit in O.S.No.168 of 2011 within a time frame.

6.The learned counsel appearing for the appellant submitted that till the disposal of the suit, the order of injunction granted by this Court on 17.06.2015 may continue.

7.The learned counsel appearing for the 1st respondent submitted that even in the absence of any interim order passed by the trial court, the 1st defendant was not permitted to withdraw the retirement benefits from the defendants 2 & 3.

8.In view of the submissions made by the learned counsel on either side, without going into the merits of the matter, I direct the III Additional Judge, Family Court, Chennai to dispose of the suit in O.S.No.168 of 2011, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order and till the disposal of the suit, there shall be an order of interim injunction restraining the defendants 2 & 3 from settling the retirement benefits payable to the 1st respondent. Further, I direct the III Additional Judge, Family Court, Chennai to decide the suit in O.S.No.168 of 2011, on merits and in accordance with law, without being influenced by the order of injunction granted by this Court and the observation made in this Civil Miscellaneous Appeal.

9.With these observations, the Civil Miscellaneous Appeal is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The III Additional Judge, Family Court,
Chennai.

+1cc to Mr.K.Raja, Advocate Sr.No.78717

C.M.A.No.1171 of 2015 and
M.P.Nos.1 & 2 of 2015

KK(CO)
sm:07.11.2017



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