

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Wednesday, the Fifth day of February Two Thousand Twenty

PRESENT

THE HON`BLE MR JUSTICE S.M. SUBRAMANIAM

CMP No.3584 of 2019
IN AS.NO.89 OF 2019

1 S.MATHIYALAGAN [PETITIONERS]
2 CHANDRA

Vs

1 M.MUTHAZHAGI [RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to stay the operation of Judgment and decree in OS No.6/2014 on the file of Principal District Judge Perambalur, dt. 23/04/2018 (IN CMP.NO.3584 OF 2019) pending disposal of the above appeal AS.NO.89 OF 2019.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.V.LAKSHMINARAYANAN, Advocate for the petitioner and of MR.M.S.ABDUL WAHAB, FOR M/S.K.V.SUBRAMANIAN, ASSOCIATES on behalf of the Respondents the court made the following order:-

The appeal suit is filed against the common judgment and decree dated 23.04.2018 passed in O.S.No.6 of 2014 and O.S.No.24 of 2013.

2. As far as A.S.No.89 of 2019 is concerned, the said appeal is filed against the judgment and decree passed in O.S.No.6 of 2014, which is for grant of maintenance.

3. The learned counsel appearing on behalf of the respondent made a submission that the maintenance amount has already been awarded by the trial Court and the maintenance being a livelihood, the appellants are liable to pay the maintenance till the appeal suit is taken up for hearing.

4. This Court is of the considered opinion that the maintenance being a right of livelihood, the same cannot be withheld or postponed.

5. However, it is brought to the notice of this Court that the respondent has already filed the Execution proceedings in E.P.No.82 of 2019 before the trial Court for execution of the maintenance award.

6. This being the factum, the respondent is at liberty to pursue the Execution proceedings in the manner known to law. As far as the stay petition is concerned, this Court is not inclined to grant any relief as the award itself is for payment of maintenance.

7. Accordingly, the stay petition in C.M.P.No.3584 of 2019 in A.S.No.89 of 2019 stands dismissed. No costs.

8. The appeal suit is directed to be listed after two weeks.

-sd/-

05/02/2020

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPLE DISTRICT JUDGE
PERAMBALUR.

2. THE SECTION OFFICER,
VR SECTION, HIGH COURT, MADRAS.

C.C. to M/S.V.RAGHAVACHARI Advocate on payment of necessary charges

सत्यमेव जयते
Order
in

CMP.3584/2019

IN AS.NO.89 OF 2019

Date :05/02/2020

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