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C.M.P.No.8859 of 2022

C.M.P.No.8859 of 2022
in C.M.P.19041 of 2019
in A.S.No.631 of 2019

R.SUBRAMANIAN, J.

and

R.KALAIMATHI, J.

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

CMP.No.8859 of 2022 has been filed seeking to vacate the stay granted in CMP.No.19041 of 2019 in A.S.No.631 of 2019.

2. The appeal itself arises out of the suit filed by the respondent in O.S.No.176 of 2014 on the file of the Family Court, Chennai directing the 1st defendant viz., the husband to include her name in his service book as his wife-nominee to enable her to get all family pensionary benefits. It is not in dispute that the marriage has run into a rough weather and an application for divorce filed by the husband on the ground of cruelty came to be dismissed. The Family Court which tried both the suit and the Original Petition together, while dismissing the Original Petition, decreed the suit partly directing the name of the wife to be included as nominee. It is this decree which is questioned. The decree being in the nature of a mandatory injunction this Court granted interim stay.



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3. We have heard Mr.I.Arokiasamy, learned counsel appearing for the petitioner in the vacate stay petition/ 1st respondent in stay petition.

4. The learned counsel would rely upon the Rules of the Employer of the husband viz., the Railways to show that the railway employee can only nominate the member of the family as nominee and if he has wife he has no other option than to nominate the wife.

5. We have perused the relevant Rules. No doubt the Rule imposes an obligation on the railway employee to nominate the member of the family, but the very same Rule shows the family for said purpose would **include** the *1) wife(s) or husband including judicially separated wife(s) or husband,*

2) son(s) including step son(s) and adopted son(s)

3) unmarried daughter(s) including step daughter(s) and adopted daughter(s)

4)widowed daughter(s)

5)Father

6)Mother

7)Brother(s) below the age of eighteen years or unmarried sister(s) and widowed sister(s) (including step brother(s) and step sister(s))



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- 8) *married daughter(s) and*
9) *children of pre-deceased son.*

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6. A very reading of the Rule itself shows that it is open to a person to nominate any one of the family members and there is no requirement that the wife alone should be nominated. In view of the same, we do not see any reason to vacate the stay. Hence, the vacate stay petition is **dismissed**. CMP.No.19041 of 2019 is allowed and the interim order granted is made absolute.

(R.S.M.,J.) (R.K.M.,J.)
01.08.2023

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in C.M.P.19041 of 2019
in A.S.No.691 of 2019

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