

Ex.No. 14/2018

Order on I.A.No.8.

I.A.No.8 is filed by the JDR No.3 U/o.21 Rule 29 of CPC to stay the further proceedings in this Petition till disposal of the Miscellaneous Petition No.14/2023 on the file of PSCJ and JMFC, Devanahalli.

It is stated that, DHR has filed this Petition to execute Decree in O.S.No. 348/2008 dated 23.03.2018.

O.S.No. 347/2008 was filed in the very same Court. Advocate for defendants filed application for rejection of plaint. It was allowed and plaint was rejected. Advocate before the Trial Court informed that, both the plaints in O.S.No.347/2008 and O.S.No. 348/2008 are rejected. Respondent No.3 & 4 believed the version of their Advocate and they were under the bonafide impression that, suit in O.S.No. 348/2008 is also dismissed. They came to know about Decree when their Advocate received Notice in this Petition. Thereafter, they have filed Miscellaneous Petition No.14/2023 to set aside the said Judgment and Decree and Miscellaneous is pending for consideration and it is posted on 08.07.2026. DHR has been avoiding service of Notice in the said

Ex.No. 14/2018

Petition and he is aware of the pendency of the said Petition. In view of pendency of Miscellaneous, this Petition is to be stayed till disposal of the Miscellaneous.

Objection is filed stating that, DHR has complied the provisions and initiated proceedings to satisfy the Decree. Application for Attachment of Property is allowed. The jurisdiction is limited. Merits of the Case not to be looked into. There is no restraint order in Miscellaneous. There is direction to dispose this Petition. JDRs are trying to drag the Petition. Hence, it is prayed to dismiss the application.

Heard the both and perused the materials on record.

It is fact that, there is Judgment and Decree in O.S.No. 348/2008. It is also fact that, Miscellaneous Petition No.14/2023 is filed challenging the said Judgment and Decree and to restore the same. To show the same, copy of Miscellaneous Petition is produced. The present Petition is filed to execute Decree in O.S.No. 348/2008.

There is direction in W.P.No. 18806/2024 to dispose this Petition within 3 months. In the meanwhile, as per the said order, all rival contentions

Ex.No. 14/2018

on all aspects are kept open. Hence, as per the said observation, all contentions can be taken by the parties.

To support the application, Advocate for JDR has filed the Order in W.P. No.22837/2022 in between Rekha Patak Vs. Sidharth Minerals and Others. In the said Order, it is held that, if the Miscellaneous Petition is pending to set aside the ex-parte Judgment and Decree and if execution court is allowed to execute ex-parte Judgment and Decree, the said Miscellaneous would render infructuous. It is also held that parties are required to be provided with sufficient opportunity to put forth their Case in the Miscellaneous. Hence, it would be appropriate to stay the Judgment and Decreed. It is also observed that, the contentions of Petitioner that, belated and flimsy grounds are required to be considered by the Court in the Miscellaneous Case.

The Principle and observation made in the above said Order are helpful to the JDR in this Case. In this Case also, JDR has filed Miscellaneous Petition to set aside ex-parte Judgment and hence, it is to be considered. If the said Decree is executed before

Ex.No. 14/2018

considering the Miscellaneous, the rights of the JDR will be curtailed. Hence, there are grounds in the application. Objection is not sustainable. Accordingly, I pass the following.

ORDER

I.A.No.8 filed U/o.21 Rule 29 of CPC is allowed.

The further proceedings in this Execution Petition No.14/2018 is stayed till disposal of Miscellaneous Petition No.14/2023.

Both shall co-operate for early disposal of Miscellaneous Proceedings.

Call on: 09.06.2026

Sd/-

**I Addl. Senior Civil Judge & J.M.F.C.,
Devanahalli.**