

ORDERS ON I.A.No.1 FILED UNDER SECTION 151 OF CPC

Present application is filed by the petitioner seeking stay of the operation of the order subject matter of Execution petition No.13/2022 till disposal of review petition.

2. In the affidavit filed in support of the application, it is contended that on the basis of the order passed by this Court on 8.3.2022, the respondent has file Execution petition No.13/2022 seeking attachment of movables of the petitioner. It is contended that if the application is not allowed and the execution petition No.13/2022 is not stayed, the petitioner would be put to hardship and inconvenience. Hence, it is prayed that the application be allowed as prayed for.

3. To this application, the respondent has filed objections contending that the application is not maintainable under law and on facts. It is stated that the petitioner has sworn to a false affidavit. It is contended that this Court after hearing the application filed under Section 24 of the Hindu Marriage Act passed an order. Hence, recovery petition was filed by the respondent bearing Execution No.13/2022. After service of the cause notice, the petitioner did not appear before the Court and did not pay the arrears of maintenance. Hence, respondent sought for attachment of movables. Hence, the petitioner has filed this I.A. It is prayed that the present application be dismissed.

4. Heard arguments.

5. The points that would arise for my consideration are:

- 1) Whether the petitioner has made out sufficient grounds for allowing the said application?
- 2) What order?
6. My findings on the above points are as under:

Point No.1 : In the **Negative**

Point No.2 : As per final order
for the following:

REASONS

7. **Point No.1:** In this case, it is seen that along with the review petition the petitioner has filed copies of I.A.No.2 filed under section 24 of the Hindu Marriage Act and the order passed on I.A.No.2 on 8.3.2022. The order passed shows that the present petitioner who was the respondent in the said case had contested the application by filing his objections. The respondent in M.C.No.98/2019 has denied the entitlement of the petitioner in M.C.No.98/2019 to the relief sought for by contending that he is a coolie worker at Shahi garments earning Rs.12,000/- per month. He has nowhere contended before the Court that he has been placed exparte and the said order has to be recalled prior to passing of an order under Section 24 of the Hindu Marriage Act. Even in the execution petition, the present petitioner who was the Jdr. did not take such a contention. Even in the execution petition the objections filed by the Jdr is that the execution petition is not maintainable as M.C.No.98/2019 is not pending and is dismissed for default. Only after attachment of movables of JDr is filed, the present review petition is filed. The conduct of the present petitioner/JDr in execution petition No.13/2022 clearly shows that he is just trying to drag on the matter. If he is aggrieved by the

order passed by the Court in execution petition, he can challenge the same. Further, an order of stay cannot be granted by exercising power U/s 151 of CPC just to defeat the right of the respondent. Accordingly, I answer point No.1 in the **Negative**.

8. **Point No.2:** In view of reasons assigned above, I proceed to pass the following:

ORDER

I.A.No.1 filed by the petitioner under Section 151 of CPC is hereby rejected.

No order as to costs.

**(Smt.Anitha G.)
Senior Civil Judge & JMFC,
Arasikere.**