

IN THE COURT OF THE II ADDL. CIVIL JUDGE & JMFC., AT PANDAVAPURA

DATED ON THIS THE 12th DAY OF JULY 2024

:PRESENT:

**Smt.Padma M, B.A., L.L.B.,
II Addl. Civil Judge & JMFC.,
Pandavapura**

Ex.No.48/2019

D.Hr : B.Bettegowda

(by Sri.CM, Adv.,)

v/s

J.Drs : Sowbhagyamma and others

(By Sri.DTV, Adv., for Dhr-1 Dhr-2 to 4 - absent)

I.A.No.IV

Applicant : Sowbhagyamma ----- J.Dr No.1

v/s

Opponent : B.Bettegowda ----- D.Hr

ORDERS ON I.A.No.IV

The J.Dr has filed I.A. No.IV filed U/sec.151 CPC for extend of the stay-order till disposal of the Civil Miscellaneous petition No.1/2023.

2. In support of said I.A., the J.Dr has filed a affidavit and stated that, J.Dr has filed a Civil Miscellaneous petition No.1/2023 against the D.Hr for relief that set-aside the exparte judgment and decree. During pendncy of said civil miss the D.Hr has filed this execution petition on exparte judgment, this

court stay the proceedings of this execution petition for a period of 4 months. but Said miscellaneous petition not disposal. Therefore seeking for extend the stay-order till disposal of the Civil Miscellaneous petition No.1/2023. Therefore prayed to allow the application.

3. The D.Hr has filed a objection and stated that, this application is not maintainable either in law or on facts. Hence prayed to dismiss. Further the D.Hr submits that the court has given already 6 months for disposal of the said civil miscellaneous, but the J.Dr not adducing any evidence for disposal of the said civil miscellaneous. This I.A. has filed by J.Dr with an intention drag on the proceedings the J.Dr has filed this IA. Therefore there is no any sufficient ground to extend the stay-order, hence D.Hr has ready to deposit of the remaining balance sale-consideration. Hence, prayed to dismiss.

4. Heard learned counsel for D.Hr and learned counsel of J.Dr.

5. On perusal of the application and documents, the following points would arise for my consideration:

(1) Whether the J.Dr has made out grounds to allow the I.A. No.IV filed U/sec.151 CPC?

(2) What order?

6. After considering the materials on record, my answer to the above said points are as follows:

Point No.1: In the Negative;

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

REASONS

7. **Point No.1:** I have gone through the execution petition, documents, it is disclosed that, the D.Hr has obtained exparte decree in O.S.No.13/2014

and filed this execution petition. The J.Dr has appeared and filed 151 of CPC application for submits that the J.Dr has filed civil miscellaneous No.1/2013 for seeking set-aside the exparte judgment and decree. This court is considered the said I.A. and stay this execution petition further proceedings till 4 months and directed to the J.Dr disposal of the said miscellaneous petition No.1/2023 within 4 months, but the J.Dr has filed this application for seeing extend of the stay the proceedings of this execution petition.

8. The J.Dr submits that not disposal of the miscellaneous petition within 4 months. But in what reasons miscellaneous petition No.1/2023 not disposal within 4 months in this regarding J.Dr not given any explanation. such being the case, this court has given sufficient time and stay this execution petition proceedings. But the J.Dr has not co-operate the trial and speedy disposal of of said miscellaneous No.1/2023. Therefore the JDR not made out ground to does not allow the I.A. **Therefore, for the above said reasons, this court answered point No.1 in the Negative.**

9. Point No.2: For the reasons discussions above supra, I proceed to pass the following:

ORDER

**The I.A.No.IV filed U/sec.151 CPC by the
J.Dr is hereby dismissed.**

(Dictated to the Stenographer, computerized by her, corrected by me and then pronounced on this the 12th day of July 2024)

**(Padma.M)
II Addl. Civil Judge & JMFC,
Pandavapura.**

Orders pronounced in the Open court
(vide separate Orders)

ORDER

The I.A.No.IV filed U/sec.151 CPC by the J.Dr is
hereby dismissed.

For further steps by 31.08.2024.

II ACJ & JMFC,
Pandavapura.