

In Re: T.K. Ratna Mudaliar

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Court : Chennai

Decided On : Apr-21-1953

Reported in : AIR1953Mad926; (1953)2MLJ278

Judge : Rajamannar, C.J. and ;Venkatarama Ayyar, J.

Appeal No. : O.S.A. of 1953 (S.R. No. 19278 of 1953)

Appellant : In Re: T.K. Ratna Mudaliar

Advocate for Pet/Ap. : S.G. Ranga Ramanujam, Adv.

Judgement :

Rajamannar, C.J.

1. An appeal is sought to be preferred under Clause 15 of the Letters Patent against an order of Subba Rao J. refusing to transfer O. S. No. 20 of 1951 from the file of the City Civil Court, Madras, to the Original Side of this Court to be heard along with a suit pending on the file of this Court, and staying the suit on the file of this Court until the disposal of the suit in the City Civil Court.

2. On the authorities, it is clear that the appeal is not maintainable. Neither the order refusing to transfer a suit from the file of the City Civil Court to this Court, nor an order staying a suit pending in this Court is a 'judgment' within the meaning of Clause 15 of the Letters Patent. See -- 'Narasa Reddi v. Tar Mahommed', AIR 1928 Mad 209 (A) and --'L. P. A. No. 74 of 1950 (Mad)' (B).

3. Learned counsel for the appellant relied upon a ruling in -- 'Krishna Reddi v. Thanikachala Mudali', AIR 1924 Mad 90 (C) in which it was held that an order transferring a suit from the file of a mofussil Court to this Court is a judgment within the meaning of Clause 15. This decision cannot be deemed to be good law any longer after the recent decision of the Supreme Court in -- 'Asrumati Debi v. Rupendra Deb', : [1953]4SCR1159 (D). Their Lordships held that an order of transfer of a suit made under Clause 13 of the Letters Patent is not a judgment within the meaning of Clause 15, and therefore is not appealable. There is abundant authority for the position that an order staying a suit is not a 'judgment' within the meaning of that clause.

4. The appeal is not competent. The papers will therefore be returned to the party.

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