
(1947) 03 MAD CK 0023
In the Madras High Court

K.R. Balaji Rao and Others

APPELLANT

Vs

M.G. Natesa Chetty

RESPONDENT

Date of Decision : 25-03-1947

Acts Referred:

Citation : (1947) 60 LW 276 : (1947) 1 MLJ 330

Hon'ble Judges : Yahya Ali, J

Bench : Division Bench

Judgement

Yahya Ali, J.—This is an application u/s 151 of the CPC to stay the trial of O.S. No. 388 of 1943 on the file of the District Munsiff's Court

of Dharmapuri pending the disposal of C.M.A. No. 517 of 1946 in this Court, On behalf of the respondent, an objection has been raised in limine

that the application is not maintainable as Section 151 of the CPC is not applicable and this Court has no jurisdiction to stay the trial of a suit out of

which the proceeding in this Court does not arise. This contention has been negatived in a series of decisions of various High Courts--vide Beeram

Ankalu Reddi Vs. Beeram Chinna Ankalu Reddi, Hukumchand Boid v. Kamalanand Singh I.L.R.(1905) Cal. 927 Nandakishore v. Ram Golam

Sahu I.L.R.(1912) Cal. 955 Mulchand v. Jiwandas AIR 1933 Lah. 50 Ma Kyaw v. Daw Kye AIR 1935 Rang. 355 and Maharaja Sasikanta

Acharjee Vs. Jalil Baksha Munshi and Others, . The only limitation that can be placed upon the exercise of jurisdiction would be that the applicant

for stay has no other remedy available to him in law which he can seek from a competent Civil Court. For instance, if he can get the particular suit

stayed u/s 10 of the Code of Civil Procedure, it would be necessary for him to adopt that remedy and where he has failed to do this Court would

not, in exercise of its inherent jurisdiction, direct the stay of the suit u/s 151 of the Code of Civil Procedure. It should further be established to the satisfaction of this Court for invoking its inherent jurisdiction that the stay has to be ordered in the ends of justice or to prevent abuse of the process of the Court. If these conditions are satisfied, there can be no question that the trial of an independent suit can be stayed by this Court in the exercise of its inherent powers u/s 151 of the CPC in the course of other proceedings pending before it. The preliminary objection must be overruled. There is no other contention raised on behalf of the respondent. The suit whose stay has been asked is the earlier suit which cannot be possibly stayed u/s 10 of the Code of Civil Procedure, and on the merits I am satisfied that it is in the ends of justice to direct stay of trial of that suit. The petition is allowed.