

GJPM040015542019

**RCS No.53 of 2019****:: Order below Exh.24 ::**

1. The present application is preferred by the defendant No.1 under the provision of Section 10 of Civil Procedure Code for staying of the instant suit. It is submitted by the defendant No.1 that he has preferred RCS No.9 of 2018 against the plaintiffs herein for land bearing R.S. No.62 of Account No.182 admeasuring Hector RA 02-03-07 akar 7.53 paisa. In the said suit the defendant No.1 is the plaintiff and he has prayed for relief of cancellation of registered sale deed No.2627 dated 10.11.2017. In pursuance of the said bogus sale deed No.2627 a criminal complaint has been preferred before Halol Police Station vide I C.R. No.544/2018 for the offence punishable under Section 406, 419, 420, 465, 467, 468, 471, 120(b), 114. It is stated that though the said RCS No.9/2018 was pending, the plaintiff herein has preferred the suit with respect to same subject matter and suit property, so it is required to be stayed under Section 10 of Civil Procedure Code. The defendant No.1 has produced the copy of plaint of RCS No.9/18 at Mark-25/1.

2. The plaintiffs have not submitted any objection or reply to the instant application.

3. On perusing the present case record the plaintiffs herein have preferred the present suit for relief of declaration and permanent injunction with respect to suit property bearing R.S. No.62 situated at Village Chhabapura, Ta.Halol, Dist.Panchmahl against the defendants. On perusing the document produced at Mark-25/1 which is the plaint of RCS No.9/2018, wherein the defendant No.1 herein has preferred the said suit for the same suit property wherein he has prayed for cancellation of registered sale deed executed with respect to the suit property as well as has prayed relief for permanent injunction. The said suit from the year itself can be said to be instituted prior to the present suit. In pursuance of this application if Section 10 of Civil Procedure Code is perused then it says that "*No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in India having jurisdiction to grant the relief claimed.*" In the instant case,

the prior suit i.e. RCS No.9/2018 is with respect to the same suit property and the matter in issue in that suit as well as in the present suit are directly and substantially one and the same. Further, the prior suit is pending before the Additional Senior Civil Court at Halol hence in this circumstance the provision of Section 10 of Civil Procedure Code creates a bar for proceeding with the present suit. Hence, in this circumstance following order is passed in the larger interest of justice :-

ORDER

1. The present suit i.e. RCS No.53 of 2019 is to be stayed as provided in Section 10 of Civil Procedure Code since prior suit i.e. RCS No.9/2018 is pending before another Court wherein the matter in issue is directly and substantially connected.

2. No order as to cost.

Signed and pronounced in the open court today on this 29th day of September, 2022.

Date : 29.09.2022
Place: Halol

(Parvezahemad Alimohamad Malaviya)
Principal Senior Civil Judge,
Panchmahals @ Halol
(Code No.GJ00837)