



IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC.,
MUDIGERE

PRESENT : Sri.Sachin.D. B.A.,LL.B.,
Prl.Civil Judge & JMFC.,
Mudigere.

DATED THIS THE 17th DAY OF FEBRUARY 2024

ORIGINAL SUIT.No:94/2020

BETWEEN :

1. Jiya-Ur-Rehaman,
S/o Fazal Ur Rehaman,
Aged about 70 years,
R/o Hand Post, Mudigere Post,
Mudigere Taluk.
2. Surayya Banu,
D/o Fazal Ur Rehaman,
R/o Nagenahalli Village & Post,
Mudigere Taluk.

... Plaintiffs

(By Sri. Siddaiah.D, Adv.)

AND :

1. Phasi Ur Rehmana,
S/o Fazalur Rehaman,
Aged about 55 years.
2. Ubedur Ur Rehaman,
S/o Fazalur Rehaman,
Aged about 58 years.
3. Sami Ur Rehaman,
S/o Fazalur Rehaman,
Aged about 64 years.



4. Kalim Ur Rehaman,
S/o Fazalur Rehaman,
Aged about 64 years.

5. Shahanaz Parveen,
D/o Fazalur Rehaman,
Aged about 54 years.

All are R/o Mudigere Town & Post,
Kasaba Hobli, Mudigere Taluk.

...Defendants

(D1-4 By Sri.B.A.Suresh, Adv.,)
(D5-Exparte.,)

PARTIES TO IA.No.4

BETWEEN :

Phasi Ur Rehmana & Ors.

...Applicants

AND :

Jiya-Ur-Rehaman & Anr.

...Opponents

1	Provisions under which the application is filed	Under section 151 of CPC
2	Relief sought for	Club the present suit with OS.No.77/2020
3	The date on which the application is filed	14.07.2023
4	Number of the application	4
5	The date on which the objection filed by opponents	26.10.2023
6	The date on which the order	17.02.2024



	was passed on the said application	
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(Sri. Sachin. D)
Prl. Civil Judge & JMFC.,
Mudigere.

ORDER ON IA NO:4

The defendants have filed the present application under section 151 of CPC, when the case was stood for cross-examination of PW1, seeking an order of this court to club the present suit with the OS.No.77/2020.

2. In the affidavit annexed to the application, it is stated that the plaintiffs have filed the present suit for the relief of permanent injunction and now, it is posted for cross-examination of PW1. The subject matter and parties in the present suit and OS.No.77/2020 are one and the same. Therefore, it is necessary to club the suit. Hence, prayed for allow the application as sought for.

3. The above application has been resisted by the plaintiffs by filing objection statement. Wherein, it is contended that the defendants have filed the present application to drag the matter. Further, the relief sought in present suit and in OS.No.77/2020 are different each other



and the suit properties are also different. OS.No.77/2020 was filed for the relief of permanent injunction. But, this suit is filed for the relief of declaration as well as the permanent injunction. Therefore, it is not required to club the both suits. Wherefore, prayed for reject the application with costs.

4. In view of the above rival contentions of the both parties, the following points arise for consideration.

1. Whether the defendants have made out sufficient grounds to allow the present application and to club the present suit with OS.No.77/2020?

2. What order?

5. Having heard both side, the court perused the application, affidavit, objections statement and other materials made available on record. Now, the findings of the court to the above points are as follows.

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

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

REASONS

6. POINT NO.1: The defendants have filed the present application under section 151 of CPC, when the case was stood for cross-examination of PW1, seeking an order of this



court to club the present suit with OS.No.77/2020. Before discuss on merits, it is necessary to mention the principles and object of clubbing of the suits. The object and principles of clubbing two suits is that to avoid the duplication of recording of evidence and to avoid possibility of recording findings inconsistent with each other and to conflict judgment. Therefore, when in two suits issues arising for decision would substantially common, the such suits can be clubbed and tried together.

7. It is to be noted here that the Code of Civil Procedure doesn't speaks specifically about clubbing of suits. But, the same can be done under the inherent power of the court flowing from section 151 of CPC. Herein this case, the defendants have moved the present application under the aforesaid provision. It is their contention that in the present suit as well as in OS.No.77/2020, the parties and subject matter are one and the same and therefore, both suits needs to be tried together and hence, the clubbing of two suits is necessary.

8. On perusal of the plaint of the present suit, it is evident that the plaintiffs have filed the present suit against the defendant No.1 to 5 for the relief of declaration that the partition deed dated 20.03.2015 is null and void and consequential relief of permanent injunction, with respect to



property bearing Sy.No.208/6, measuring 2 guntas, 208/6, measuring 6 guntas, 208/6, measuring 6 guntas, 208/3, measuring 4 guntas, 208/6, measuring 6 guntas and 208/6, measuring 6 guntas, situated at Mudigere village. On perusal of the plaint in OS.No.77/2020, it is evident that the plaintiff No.1 in the present suit has filed suit against the defendant No.2 herein for the relief of permanent prohibitory injunction with respect to properties assessment No.38/8, 38/9, 38/10, 38/11, 38/12, 38/13, 38/14, 38/15, 38/16, 38/17, 38/18 and 38/19, which are situated within the limits of Hale Mudigere grama panchayath.

9. On careful reading of the plaint averments of the both cases, it is clearly indicate that both suits filed on different cause of action in respect of different properties. Further, all parties in the both suits are not one and the same. The very object of clubbing the suits is to avoid the duplication of recording of evidence and also avoid conflicting judgments, when same subject matter is involved in the both suits. But, in the present case on hand, the relief sought in the both suits are different and also those have been filed with respect to different properties. Hence, clubbing the both suits will lead to complication and it may be hampered to the court in referring the documents and the evidence while adjudicating the independent claims in the both suits. Therefore, the



clubbing of the present suit with the OS.No.77/2020 as prayed by the defendants needs to be declined. Accordingly, this court answer point No.1 is **in the Negative**.

10. Point No:2: In view of the above discussions on point No.1 this court proceed to pass following:

: O R D E R :

The IA No.4 filed by the defendants under section 151 of CPC is hereby rejected.

No order as to costs.

*(Dictated to the stenographer, typed by him on computer, corrected and then pronounced by me in the open court on this the **17th day of FEBRUARY, 2024**)*

(Sri. Sachin. D)
Prl. Civil Judge & JMFC.,
Mudigere.

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