

IN THE COURT OF THE CIVIL JUDGE AND ADDL. J.M.F.C AT TARIKERE

O.S.No.197/2016

PLAINTIFF

vs.

DEFENDANTS

Sri. T.R. Somashekaraiah

Smt. S.S. Sumathi and another

Date: 30.08.2025

Proceedings or Orders of the Judicial Officer

ORDERS ON I.A. NO.XV

1. Applicant/ GPA Holder of Defendant No.1 has filed the instant application under Order Section 10 of C.P.C with the prayer to stay the further proceedings of the present suit till the disposal of the suits in O.S. No. 84/2016 and O.S. No. 86/2016 pending on the file of Hon'ble Additional Civil Judge, Tarikere.

2. In the affidavit appended to the application, the Applicant/GPA Holder of Defendant No. 1 has contended that the present suit seeks the relief of a permanent injunction against the Defendants concerning the suit schedule property. It is further contended that Defendant No. 1 and Defendant No. 2 have filed suits in O.S. No. 84/2016 and O.S. No. 86/2016, respectively, which are pending before the Hon'ble Additional Civil Judge, Tarikere. The present suit has been filed by suppressing the pendency of the two earlier suits and is a subsequent suit. The pleadings in both suits are identical, and the parties in both suits are the same. The issues in the present suit are directly related to the issues in the aforementioned suits. Hence, the prayer is to allow the application.

3. Resisting the application, the Plaintiff has filed objections and contended that the application is not maintainable either in law or in fact and is filed with the intention to delay the proceedings. The application, which has been filed at the fag end of the matter, is not maintainable. Therefore, the Plaintiff prays that the application be rejected.

4. Heard both sides. The Learned Counsel for Defendants has also relied upon 4 documents in support of his contentions.

5. Having heard and on perusal of the materials, the sole point that would now arise for my consideration is as under -

Whether the Applicant/ GPA Holder of Defendant No.1 has made out sufficient grounds to allow the application in I.A No.XV?

6. Now, my findings on above point is in the **Negative** for the following reasons -

7. The suit is filed seeking the relief of permanent injunction against the Defendants in respect of the suit schedule property. The suit is presently at the stage of arguments. At this stage, the Applicants/ Defendants have filed the present application seeking stay of the further proceedings of the suit pending disposal of O.S. No.84/2016 and O.S. No.86/2016.

8. Before adverting to the factual matrix, it becomes necessary to understand the ambit and sphere of Section 10 of CPC. Section 10 of CPC reads thus -

"10. Stay of suit. – 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, or in any Court beyond the limits of India established or continued by the Central Government and having like jurisdiction, or before the Supreme Court."

9. The fundamental test to attract Section 10 is whether, upon a final decision being reached in the previous suit, such decision would operate as res judicata in the subsequent suit. Section 10 applies only in a case where the whole of the subject matter in both suits is identical. The key words in Section 10 are "the matter in issue is directly and substantially in issue" in the previously instituted suit. The words "directly and substantially in issue" are used in contrast to the words "incidentally or collaterally in issue." Therefore, Section 10 would apply only if there is identity of the matter in issue in both suits, meaning that the whole subject matter in both proceedings is identical. The object of Section 10 is to prevent Courts of concurrent jurisdiction from simultaneously trying two parallel suits concerning the same matter in issue, thereby avoiding two parallel trials on the same issue by two Courts and preventing conflicting findings on issues that are directly and substantially in issue in the previously instituted suit.

10. With these principles in mind, it is now appropriate to examine the essential facts of the

case, but only to the extent necessary for the disposal of this application.

11. The Applicants, having alleged that the two previous suits filed by them in O.S. No. 84/2016 and O.S. No. 86/2016, wherein the matter in issue in the present suit is directly and substantially in issue in those suits, have furnished the plaints of those two suits. A reading of the same indicates that the said two suits were filed seeking the relief of permanent injunction concerning the properties mentioned therein. The present suit has also been filed seeking the relief of permanent injunction; however, the properties in all three suits are entirely different from one another. Though the pleadings reveal that the parties are neighboring owners, the properties involved in the suits are distinct and require independent adjudication. In these circumstances, it cannot be held that the matter in issue in the present suit is directly and substantially in issue in those suits. The application at hand has been filed at the fag end of the matter without making out any valid grounds. The attempt to bring the application appears to be aimed at protracting the proceedings, and as such, it deserves to be met with appropriate costs. Accordingly, I answer the sole point which has arisen for my consideration in the **Negative** and proceed to pass the following -

ORDER

I.A No.XV filed by the Applicant/ GPA Holder of Defendant No.1 under Order Section 10 of C.P.C is hereby dismissed on cost of Rs.1,000/-.

Now, no costs.

sd/-

**Civil Judge and Addl. JMFC.,
Tarikere.**