

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

FDP.No.05/2013

Petitioner
Kum. K.K. Sowmya

vs.

Respondents
Sri. K.T. Kumarappa and others

Date: 30.06.2025

Proceedings or Orders of the Judicial Officer

ORDERS ON IA.NO.V

- 1.** I.A.No.V has been filed by the Applicant/ Respondent No.2 u/s. 10 r/w. Section 151 of CPC with the prayer to stay the further proceedings of the case.
- 2.** In the affidavit appended to the application, it is, *inter alia*, contended that in a subsequently instituted suit, O.S. No. 17/2014, before the Court of Hon'ble Senior Civil Judge, Tarikere, another Judgment and Decree has been passed concerning the suit schedule properties. There is a conflict in the manner in which the shares have been enlarged among the parties in both suits. The Judgment passed in O.S. No. 17/2014 would bind all the parties, and hence, to avoid conflicting observations, the present petition needs to be stayed. Therefore, the prayer is to allow the application.
- 3.** Resisting the application, the Petitioner has filed objections and contended that the application is not maintainable either in law or on facts, and that it has been belatedly filed solely to harass the Petitioner. The relationship between the parties is not in dispute. The suit in O.S. No. 02/2009 was

decreed without any contest. The Judgment rendered by this Court would bind all the parties. The application does not disclose any valid grounds. Hence, the prayer is to dismiss the application with heavy costs.

4. Heard both sides.

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

“Whether the Applicant/ Respondent No.2 has made out sufficient grounds to allow the applications in I.A.No.V?”

6. My answer to it is in the '**Negative**' for the following reasons -

7. The present petitioner has been filed with a prayer to pass a final decree based on the preliminary decree passed by this Court in O.S. No. 02/2009. Respondent No. 2 has now filed the instant application seeking to exercise of powers under Section 10 of the CPC, praying for a stay of further proceedings in view of the parallel proceedings concerning the same parties and properties in O.S. No. 17/2014, on the file of Court of Hon'ble Senior Civil Judge, Tarikere.

8. However, the application filed under Section 10 CPC appears, on the face of it, to be misconceived for the simple reason that the suit in O.S. No. 02/2009 which forms the subject matter of the present petition was instituted earlier than O.S. No. 17/2014. In such circumstances, this Court, wherein the earlier suit was filed, cannot exercise

powers under Section 10 CPC, as doing so would be contrary to the very mandate of the said provision.

9. The application, therefore, appears to have been filed solely with the intention of protracting the proceedings, without making out any valid grounds. Hence, the same is liable to be rejected with appropriate costs. In view of the above discussion, I answer the sole point that arose for my consideration in the **Negative**, and proceed to pass the following:

ORDER

I.A.No.V filed by the Applicant/ Respondent No.2 is hereby rejected on cost of Rs.1000/-.

For further steps, call on:

sd/-

C.J. & A.JMFC: Tarikere.