

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

O.S.No.397/2024

PLAINTIFFS

vs.

DEFENDANT

Smt. Lakshmid devi and others

Sri. D.S. Suresh

Date: 21.04.2026

Proceedings or Orders of the Judicial Officer

ORDERS ON I.A. NO.II

1. Applicant/ Defendant has filed the instant application under Section 10 r/w. Section 151 of C.P.C with the prayer to stay the further proceedings of the present suit, pending on the file of this Court.

2. In the affidavit appended to the application, the Applicant/Defendant has contended that the suit has been filed by the Plaintiff seeking the relief of permanent injunction in respect of the suit schedule properties. It is further contended that Plaintiff Nos. 6 to 8 have already instituted O.S. No. 67/2022 on the file of the Hon'ble Senior Civil Judge, Tarikere, seeking the relief of declaration and permanent injunction in respect of the properties described therein. The Defendant has also instituted O.S. No. 155/2024 on the file of the Hon'ble Senior Civil Judge, Tarikere, against Plaintiff Nos. 6 to 8 seeking the relief of declaration and permanent injunction in respect of the suit schedule property. It is contended that the issues involved in all the three suits are directly and substantially the same and that the Plaintiffs are litigating under the same set of facts.

The present suit, according to the Defendant, is nothing but an abuse of the process of law. Hence, it is prayed that the application be allowed.

3. Resisting the application, the Plaintiff has filed objections contending that the application is not maintainable either in law or on facts. It is further contended that the annexed affidavit is filled with falsehood. The suit instituted by Plaintiff Nos. 6 to 8 relates only to the 'C' schedule property in the said suit and does not pertain to the present suit 'A' and 'B' schedule properties. It is also contended that the parties in the present suit and the earlier suits are entirely different, and therefore, Section 10 of the Code of Civil Procedure cannot be invoked to stay the present suit. In such circumstances, the application filed by the Defendant is devoid of merits and deserves to be rejected. Hence, the prayer is to reject the application.

4. Heard both sides.

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/ Defendant has made out sufficient grounds to allow the application in I.A No.II?

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 Defendant in respect of the suit schedule properties. The suit is

presently at the nascent stage. At this stage, the Applicant/ Defendant has filed the present application seeking stay of the further proceedings of the suit pending disposal of O.S. No. 67/2022 and O.S No.155/2024 pending on the file of the Hon'ble Senior Civil Judge Tarikere.

8. Before advertng 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 Applicant, having alleged that the two previous suits in O.S. No. 67/2022 and O.S. No. 155/2024, one filed by either side, wherein the matter in issue in the present suit is directly and substantially in issue in those suits, has failed to furnish copies of the plaints and other relevant documents of both such suits. The Plaintiff has, however, furnished the suit documents relating to O.S. No. 67/2022, and a reading of the plaint therein indicates that the suit has been instituted only by Plaintiff Nos. 6 to 8 in the present suit as against the Defendant, and that too only in respect of one property, namely the 'C' schedule property in the present suit.

12. No documents have been produced by the Defendant in relation to O.S. No. 155/2024, as stated above. However, the application itself

discloses that the said suit has been instituted by the Defendant herein only against Plaintiff Nos. 6 to 8 herein. This aspect clearly reveals that there are additional parties as well as additional properties involved in the present suit, thereby making it distinct from the two earlier suits. This circumstance takes the dispute outside the purview of Section 10 of the Code of Civil Procedure, and hence, the application is devoid of merit and is liable to be dismissed. 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.II filed by the Applicant/ of Defendant under Order Section 10 r/w Section 151 of C.P.C is hereby dismissed.
Now, no costs.*

sd/-
**Prl. Civil Judge and JMFC.,
Tarikere.**