

IN THE COURT OF PRL.CIVIL JUDGE, & JMFC.,AT
CHAMARAJANAGARA

Dated this 02nd day of February 2026

: **PRESENT:**

SMT. SMITA NAGALAPUR., B.A.LL.B,
PRL. CIVIL JUDGE & JMFC.,
CHAMARAJANAGARA

OS.No.220/2025

PLAINTIFF/s : Kirankumar

V/s

RESPONDENT/s: Ningashetty and Others

I.A.No.II

APPLICANT/s : 1. Ningashetty,
S/o Late Siddannanjashetty,
aged about 63 years,

2. Nagashetty,
S/o Late Siddannanjashetty,
Aged about 57 years,

3. Kalamma,
D/o Late Siddannanjashetty,
Aged about 52 years,

4. Shankara,
S/o Late Siddannanjashetty,
Aged about 45 years,
All are R/at,
Behind Vinayaka Temple,
Ward No.28, Uppara Street,
Ramasamudra,
Chamarajanagar Town.

(by Sri V.S., Advocate)

V/s

OPPONENT : Kirankumar
S/o Late Ramesh Chandra,
Aged about 52 years,

R/at, Do.No.23/360,
Ward No.23,
Shankarapura Extension,
1st Cross, Near Sri Rama Mandira,
Chamarajanagar Town.

(By Sri.V.N.R., Advocate)

i.	<i>Provision under which the application is filed</i>	<i>Sec.10 of CPC</i>
ii.	<i>Relief sought for</i>	<i>Stay of suit</i>
iii.	<i>The date on which the applications are filed</i>	<i>22.07.2025</i>
iv.	<i>Number of the application</i>	<i>IA.No.II</i>
v.	<i>The date on which the objections are filed by different opponents</i>	<i>31.07.2025</i>
vi.	<i>The date on which the orders were passed on the said application</i>	<i>02.02.2026</i>

ORDER ON I.A.II

The Plaintiff filed I.A.No.II U/Sec.10 of CPC praying therein to stay this suit till disposal of original suit registered as P.Misc.1/2023 on the file of the Senior Civil Judge, Chamarajanagar.

2. The defendant No.1 has filed his affidavit along with application and stated that he filed application on his behalf and on behalf of other defendants who are his family members. Further stated that himself and they have filed suit as indigent persons in P.Misc,1/2023 on the file of the Hon'ble Senior Civil Judge, Chamarajanagar against the plaintiffs of this suit in respect of same suit schedule properties for the relief of declaration and permanent injunction. The said suit is pending for disposal. The same

has been pleaded by the plaintiffs herein in the para 4 of the plaint. The suit properties, parties and relief claimed are identical nature. The present suit may be stayed till the disposal of the earlier suit. If application is not allowed the defendants will be put to great hardship and prays to allow application.

3. The plaintiff has filed objection contended that this application is not maintainable either in law or on facts. The parents of the plaintiffs have purchased the some suit schedule property through different registered sale deeds from Chinnaswamappa S/o Mallappa. The plaintiff has purchased the some of the suit schedule properties from Kanyalaa and Dinesh Kumar, who were purchased the said properties from said Chinnaswamappa. The said Chinnaswamappa purchased the land bearing No.612/2 measuring 1 acre 25 guntas through registered sale deed dated 21.05.1969 from his Vendor Madappa and hi sons for valuable consideration of Rs.3,000/- and possession of the said property delivered on the same day. The said Chinnaswamy converted the lands as residential sites and sold the same to several persons through registered sale deeds. The parents of the plaintiff purchased the suit schedule properties and the plaintiff is looking after the properties after death of their parents. The defendants herein pleaded these facts in their plaint in P.Misc.No.1/2023 before the Hon'ble Senior Civil Judge, Chamarajanagar. After sale of property by the Chinnaswamappa, the parents of plaintiff and

the plaintiff are paying tax and their names are appearing in the E-Swatthu. The defendants here in have filed false application and interfering in the peaceful possession of the plaintiff. The application is liable to be rejected with cost.

4. Heard both side.

5. On the basis of the pleading, parties and documents produced the following points arise for my consideration:

1. Whether the present suit is to be stayed by considering pendency of P.Misc.1/2023 on the file of Hon'ble Senior Civil Judge, Chamarajanagar is identical?
2. What order?

6. My answers to the above points are as under:

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

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

REASONS

7. Point No.1: This suit filed by the plaintiff for the relief of permanent injunction. The defendants have moved this application instead of filing written statement immediate after their appearance. The counsel for the plaintiff pressed I.A.No.1 under order XXXIX Rule 1 and 2 of CPC, when this Court heard on I.A.No.II. Thereafter, the defendants have filed written statement after lapse of stipulated period as per amended CPC and same was not taken on record by rejecting I.A.No.IV. The defendants contended that the parties, suit schedule property and relief claimed by them are identical

and this suit may be stayed till disposal of earlier suit filed by them.

Therefore, this Court has to consider the said facts:

PARTICULARS	O.S.No.220/2025	P.Misc.01/2023
1. Plaintiffs:	Kiran Kumar	Puttananjamma, Ningashetty, Nagashetty, Kalamma & Shankara
2.Defendants:	Ningashetty, Nagashetty, Kalamma & Shankara	Kamalamma, Sangeetha, R.M.Hemalatha, Kusuma, Mahesh, Gireesha, Veena, Mariswamy, Nagarajappa, M.Shivamallappa, Kiran Kumar.
3. Plaint Prayer:	Permanent Injunction	Declaration & Permanent Injunction
4.Plaint Schedule property:	Open Plot No.28-1- 103A to 28-1-103H (Total 8 open plots)	Open Plot No.28-1-5- 103A, 28-1-5-103B, 28-0-5-103D, 28-1-5- 103F (Total 4 plots)

8. This present suit is filed by the plaintiff for relief of perpetual injunction. The documents produced by the plaintiff shows that, the suit schedule properties situated in Sy.No.612/2 measuring 1 acre 25 guntas situated at Ramasamudra was purchased by Chinnaswamappa through Registered Sale deed from his vendor. Subsequently, he converted residential plots and sold some of the plot to the parents of plaintiff and vendor of the plaintiff. The said facts has not been stated in the plaint and stated in his objection to this application. The applicant/defendants contended that, they have moved petition P.Misc.No.01/2023 before the

Honb'le Senior Civil Judge seeking permission to sue as indigent persons. Till today the said petition is pending for disposal and no such Original Suit registered on permission of the Court. Therefore, the said petition should not be considered as 'Previously instituted suit' prescribed under Sec.10 of CPC for that aspect it is just and proper to go through said provision.

Sec.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 have 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.

Explanation.--The pendency of a suit in a foreign Court does not preclude the Courts in ¹[India] from trying a suit founded on the same cause of action.

9. Therefore, it is clear that, the petition filed by the defendants herein under Order XXXIII of CPC., is not a Original Suit as contemplated in the above said provision. If the Hon'ble Court permits the party to sue as indigent persons then only the original suit should be registered. Therefore, this suit has been instituted prior to registration of suit before the Hon'ble Senior Civil Judge on merit of petition filed by the defendants herein. The said petition P.Misc.No.1/2023 is not a suit and if that petition will be allowed than the concerned Court will give Original suit number on registration in future days. The above said

provision is clear the suit schedule properties, parties and issue in the present suit is directly and substantially in issue in the previously instituted suit. For that aspect counsel for plaintiff relied decision of the **Hon'ble High Court in Smt.Kusuma Kumari V/s Dr.Hafeezur Rahaman & Others** (WP.No.28964/2024 dated 10.06.2025). I have gone through said judgment the Hon'ble Court referred decision of the **Hon'ble Apex Court in NIMHANS V/s C.Parameshwara** {(2005) 2 SCC 256}. The relevant para's reproduced as under:

"11. In the present case, the parties in all the three suits are one and the same and the court in which the first two suits have been instituted is competent to grant the relief claimed in the third suit. The only question which invites our adjudication is as to whether "the matter in issue is also directly and substantially in issue in previously instituted suits". The key words in Sec.10 are "the matter in issue is directly and substantially in issue in the previously instituted suit". The test for applicability of Sec.10 of the Code is whether on a final decision being reached in the previously instituted suit, such decision would operate as res-judicata in the subsequent suit. To put it differently one may ask, can the plaintiff get the same relief in the subsequent suit, if the earlier suit has been dismissed? In our opinion, if the answer is in affirmative, the subsequent suit is not fit to be stayed. However, we hasten to add then when the matter in controversy is the same, it is immaterial what further relief is claimed in the subsequent suit.

12. As observed earlier, for application of Section 10 of the Code, the matter in issue in both the suits have to be directly and substantially in issue in the previous suit but the question is what "the matter in issue" exactly means? As in the present case, many of the matters in issue are common, including the issue as to whether the plaintiffs are entitled to recovery of

possession of the suit premises, but for application of Section 10 of the Code, the entire subject-matter of the two suits must be the same. This provision will not apply where few of the matters in issue are common and will apply only when the entire subject matter in controversy is same. In other words, the matter in issue is not equivalent to any of the questions in issue."

10. On going through provision and above decision it is clear that, there should be two identical suits before two competent Courts and the Court where subsequent suit has been filed shall be stayed by considering matter in issue. Here in this case there is no previous suit to consider substantial issue, parties and cause of action. If that Miscellaneous petition allowed then also the said suit become subsequent suit to this present suit. Therefore, the provision U/Sec.10 of CPC is not applicable in this case and this Court cannot stay. Proceedings of this suit by considering Miscellaneous petition filed before the Hon'ble Senior Civil Judge Court. Hence application rejected and I answered point No.1 in the **NEGATIVE**.

11. Point No.2 :- In view of above discussion, I proceed to pass the following:-

ORDER

I.A.No.II filed by the Defendants under
Sec.10 of CPC is hereby rejected.

No order as to cost.

(Directly dictated to the Stenographer on Computer, typed by her corrected by me, then pronounced in the open Court on this the 02nd day of February 2026)

**PRL. CIVIL JUDGE & JMFC.,
CHAMARAJANAGARA**