

ORDER ON IA No.XVI

This is an application filed by the defendant under Section 10 of CPC to stay the further proceedings of this case.

2. In support of the application, the defendant No.10 has sworn to an affidavit and wherein it is stated that the plaintiff of this case has filed a suit seeking similar relief as sought in this case. The said suit is numbered as OS FR No.537/2015 and the same is pending before Prl.Sr.Civil Judge and CJM Court, Dharwad. Therefore, the said suit and the present suit being filed by the plaintiff herein seeking the same relief and between the same parties and in respect of the same suit properties, as such the defendant No.10 prayed to stay the proceedings of this suit as envisaged under Section 10 of CPC.

3. The counsel for plaintiff filed objections to the application contending that same is not maintainable and further contended that the said suit is in the FR stage and the office had filed objections and in view of the same, the plaint in the said suit required to be

returned to the plaintiff to present before the proper Court on the ground of pecuniary jurisdiction. Therefore, amongst other grounds, the plaintiff prayed to dismiss the application.

4. I have heard the counsel for plaintiff on IA XVI. Despite giving sufficient time, as there was no representation for defendant No.10, the arguments of defendant No.10 on IA No.XVI is taken as nil.

5. On 09-06-2022 during the course of hearing of this case, the plaintiff has filed memo with certified copy of order sheet in FR OS No.537/2015. On perusal of the same it appears that on 20-04-2022, the said suit which was still under preliminary stage was got not pressed by the plaintiff. Therefore, as on today there is no any case pending seeking the reliefs sought in this case and in respect of the same suit properties and in between the same parties. To invoke Section 10 of CPC there must be a case pending in between the same parties in respect of the same subject matter and seeking the same reliefs. Therefore, as on today as there is no such case pending

as alleged by the defendant No.10, as such the application filed by defendant No.10 to invoke Section 10 of CPC requires to be rejected. Hence, I proceed to pass the following:-

ORDER

The IA No.XVI filed by defendant No.10 under Section 10 of CPC is hereby rejected.

No order as to cost.

IV Addl. Senior Civil Judge,
& J.M.F.C.,DHARWAD.

Call on for cross of PW.1 by
26-07-2022.

