

**IN THE COURT OF THE CIVIL JUDGE AND JUDICIAL  
MAGISTRATE FIRST CLASS, SAVANUR.**

PRESENT : **Sri. Shreyansh Doddamani,**  
**B.Com., LL.B.,(spl)**  
Civil Judge and JMFC.,  
Savanur.

**ORIGINAL SUIT NO.283/2014**

**Dated this 5<sup>th</sup> day of August, 2023**

**PLAINTIFFS:** Basavaraj S/o Channabasappa Havanagi,  
Age : 60 Years, Occ : Agriculture & Business, ,  
R/o : Savanur, Tq : Savanur,Dist : Haveri and  
others.

**Vs**

**DEFENDANT:** Shiddappa S/o Panchappa Havanagi,  
Age : 54 Years, Occ : Agriculture,  
R/o : Savanur, Tq : Savanur,Dist : Haveri.

**IA No.14**

**Applicant:** Shiddappa S/o Panchappa Havanagi.  
**(Defendant)**

**Vs**

**Opponents:** Basavaraj S/o Channabasappa Havanagi,  
**(Plaintiffs)** and others.

**ORDER ON IA No.14.**

The defendant has filed this application u/s 10 of CPC for stay of the suit.

**2.** Defendant Siddappa Panchappa Havanagi has sworn in an affidavit accompanying with IA No.14, wherein he stated that the plaintiffs had filed this suit for relief of declaration of title based on the gift deed dated 14.04.1966. He had filed detailed written statement and now the matter is posted for evidence. The plaintiffs preferred the writ petition Hon'ble High Court of Karnataka Dharwad Bench in WP No.103100/2017. The said WP has been still pending the said WP the subject matter of the property is involved between same parties. Hence, he prayed to stay the present suit till disposal of WP No.103100/2017 (KLR.RR+SVR).

**3.** The plaintiffs have filed detailed objections by denying the contents of affidavit accompanying with IA No.14. Wherein their have contented that IA No.14 is not maintainable. IA is against the law and facts. On the bases of WP this case cannot be stayed. Hence, they prayed to reject the applications.

4. In spite of sufficient time has been given, defendant counsel not addressed his arguments on IA No.14. Plaintiffs counsel submits arguments taken as heard. I have perused the materials on record.

5. The following points arises for consideration.

1. Whether the applications made out grounds to allow.?
2. What order.?

6. My Answers to the above points.

**Point No.1.** In the Negative.

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

### **REASONS**

7. **Point No.1.** The plaintiffs have filed this suit for declaration of title in respect of suit land bearing RS.No.126 measuring 21 guntas of Savanur by contending that the grand father of plaintiff No.1 Ningappa Shivappa Havanagi, who was the original owner of the suit property, had executed registered gift deed in favour of plaintiff No.1 and husband of plaintiff No.2 on 14.04.1966 and handed over the possession. Since then the plaintiffs have been possession over the suit property.

But the defendants got muted their name in revenue records illegally. On the bases of the entries the defendants obstructing to the possession of the plaintiffs. Then the plaintiffs preferred RTS APSR No.204/2013-14 before Assistant Commissioner Savanur. But the defendants denied the title of the plaintiffs and obstructing to their possession, hence filed this suit.

**8.** The defendants appeared through their counsel and filed written statement by denying the title of plaintiffs over the suit property and contended that the said Ningappa Shivappa Havanagi relinquished his rights over the suit property infavour of defendants. The plaintiffs have not been in possession over the suit property, they have been possession over the suit property. Hence, they prayed to dismiss the suit.

**9.** On the bases of the pleadings this court has framed the issues. The plaintiff No.1 examined as PW1. When it was posted for cross of PW1. The Defendant filed IA No.12. Same was disposed. Then filed present application based on pendency of Writ petition between the same parties.

**10.** On careful perusal of the WP even it is between same parties, it is based on the ordered of Deputy Commissioner in RTS/RA/CR No.30/2015-16 dated 16.02.2017 in respect of revenue entries is concerned. The present suit is for rights of the parties over the suit property. Therefore it cannot be considered as one and same. The revenue authority has no power to decide the rights of the parties over the suit property. The civil Court has only got jurisdictional to decide the rights of the parties over the suit property. The said Writ Petition is not for rights of the parties over the suit property. Therefore only on the bases of pendency of the Writ Petition the further proceedings of the suit cannot be stayed. Further the pendency of WP cannot be treated as suit. Apart from that the Court also different. Regarding the Writ Petition is concerned the Civil Court has no jurisdiction to decide. Therefore, the nature of Writ Petition and nature of suit are very different. Hence, the application has no grounds to allow. Therefore this court has answered the **point No.1 is in the negative.**

**11. Point No.2.** In view of the above discussion I proceed to following;

**ORDER**

**IA No.14 filed u/s 10 of CPC by the  
defendants is hereby rejected.**

**No order as to cost.**

(Dictated to Typist directly on computer, corrected, signed and then pronounced  
by me in the open court on this the 5<sup>th</sup> day of August, 2023)

CJ and JMFC, Savanur