

KAKL510029982021



IN THE COURT OF I ADDL. CIVIL JUDGE AND J.M.F.C.,
AT : K.G.F

Present:

Smt. Shemida.K, B.A.(Law), LL.B.,
1st Addl. Civil Judge and J.M.F.C,
KGF

Original Suit No.382/2021

Dated this the 21st day of November, 2025

Plaintiff : Sri.Jayarama Reddy,
S/o Late Sri.Obala Reddy,
Aged about 62 years,
R/at Rayasandra Village,
Vengasandra Post,
Kyasamballi Hobli, KGF Taluk.

(Rep. by Sri.J.P., Advocate)

V/s

Defendants : 1. State of Karnataka,
Represented by its Principal Secretary,
M.S. Building, Bengaluru - 56001
2. Deputy Commissioner,
Kolar.
3. Tahasildar,
K.G.F. Taluk, KGF,
Kolar District – 563122.

(Rep. By A.G.P., Advocate)

IA No.12

APPLICANT : Sri.Jayarama Reddy
(Plaintiff)

V/s

OPPONENT : State of Karnataka and Others.
(Defendants)

i. Provision under which the application is filed	Under Sec.10 r/w Sec.151 of CPC filed by the plaintiff
ii. Relief sought for	To stay the further proceedings of this case and confirmed the Judgment and Decree passed on 13.12.2024 wherein the defendants not complied the direction passed in RA.28/2025 dated 25.04.2025
iii. The date on which the application is filed	14.07.2025
iv. Number of the application	IA.No.12
v. The date on which the objections are filed by different opponents	02.08.2025
vi. The date on which the orders were passed on the said application	21.11.2025

ORDER ON I.A.No.12

The present application was filed by the plaintiff under Section 10 r/w Sec.151 of CPC as IA No.12 seeking direction to stop/stay the further proceedings and confirmed the judgment and decree passed on 13.12.2024 as the defendants not complied the directions passed by Hon'ble appellate Court in RA.28/2025 dated 25.04.2025, in the interest of justice and equity.

2. In the affidavit filed in support of said application, the plaintiff has filed the present suit against the defendants for

the relief of declaration of title and other consequential reliefs. Further stated that this Court already passed judgment on 13.12.2024 in favour of plaintiff and aggrieved the said order the defendants have preferred RA.28/2025 before Hon'ble Addl. Sr. Civil Judge, KGF and it was allowed on 25.04.2025 with a direction to the defendants to pay cost of Rs.5000/- within one month from the date of judgment and decree. But the defendants have not complied the same and after verification of documents, he has come to know that they have not deposited the cost. Hence the defendants having no right / locus-standi to proceed with the case as per the judgment and decree passed by the Hon'ble appellate Court in RA.28/2025 dated 25.04.2025. Further stated that if this Court allowed the defendants to prosecute the case, then it is against the judgment and decree passed in RA.28/2025 dated 25.04.2025. Hence on all these grounds prays to allow the application.

3. On the other hand, the learned AGP has filed objection wherein she has contended that the present application is not maintainable either in law or on facts and denied all the averments. Further admits that it is suit filed by the plaintiff for declaration of title and admits that it was remanded in RA.28/2025 by Hon'ble Addl. Sr. Civil Judge, KGF with a cost of Rs.5,000/-. Further contended that in the earlier proceedings the defendants not filed written-statement and the suit of the plaintiff was decreed, hence it was remanded to this Court with direction to the defendant to file a

written-statement and also imposed Rs.5,000/- cost. Further contended that already the said order was intimated by defendant No.3 to defendant No.1 and 2, who are Government officials and it will take time to prepare a bill for the said cost and meantime defendant No.3 prepared the bill from Treasury and they are ready to pay the said cost to the plaintiff. At this stage the plaintiff has filed this frivolous application and the delay is bonafide one and not intentional one. Further contended that there is no mention of further consequences in the order passed in RA.28/2025, if it is not complied within one month. Hence the present application is not maintainable and prays to reject the application.

4. Heard both the sides and perused the documents on record.

5. Now the points that arise for my consideration are:

1) Whether the defendant has made out grounds to allow the application filed under Sec.151 of CPC recall the order of this Court at this stage as prayed for ?

2) What order?

6. My findings on the above points are as under:

Point No.1 : In the Negative,

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

REASONS

7. **POINT No.1:-** Having heard and on perusal of the record it reveals that, the plaintiff has filed the present suit in the year 2021 against defendant No.1 to 3 for the relief of

declaration of title, permanent injunction, mandatory injunction with respect of suit-schedule property bearing Sy.No.85/4, measuring 35 guntas situated at Rayasandra Village. When the matter was stood for appearance of the parties after the remand, the present application came to be filed by the plaintiff and opposed by the defendants.

8. Before going into the merit of the application it is appropriate to glance the brief history of present cast. The record shows that the defendant No.1 to 3 are Government authorities wherein Prl. Secretary is defendant No.1 and DC as well as Tahasildar are defendant No.2 and 3. Further Sec.80(1) of CPC notice was dispensed and summons issued to defendant No.1 to 3. Meantime AGP has filed her memo of appearance, but not opted to file written-statement in time. Hence that on 13.04.2022, written-statement taken as not filed and the matter proceeded with and that on 13.12.2024 the suit of the plaintiff was decreed and he was declared as the owner of suit-schedule property and also granted other reliefs. Aggrieved the said order the defendants have preferred RA.28/2025 dated 25.04.2025 wherein the Hon'ble Addl. Sr. CJ, KGF has allowed the appeal with cost of Rs.5,000/- and directed the respondent to pay within one month from the date of said order. Further in the said judgment the Hon'ble Court opined that the said cost will be recovered from the concerned officials who were discharging their duty in the office of defendants at that time of pendency of suit and also opined that they are directly responsible for decreeing the suit

exparte. Further in the said judgment the Hon'ble Court given opportunity to the defendants to file their written-statement and directed to assist the Court to dispose the case within one year from the date of order. Meantime that on 05.06.2025 this Court has received the file and issued remand notice to both the parties and posted the matter on 14.07.2025. On the said date the present application is filed.

9. The present application was filed by the plaintiff under Sec.151 of CPC which deals about saving of inherent powers of the Court which reads as follows: *“Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice, or to prevent abuse of the process of the Court”*. The above said section clearly shows the discretionary power of the Court to pass appropriate order in the interest of justice if there is no provision in the CPC.

10. Further the present application also filed under Sec.10 of CPC which deals about stay of suit. Further the said Section reads as follows;

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 [India] from trying a suit founded on the same cause of action.

The scope of above said provision is prevent parallel trials of same matter to ensure judicial efficiency and avoid conflicting judgments. The said provision mandates the Court to stay the trial of subsequent suit if the matter in issue is directly and substantially same as that in a previously instituted suit between the same parties which is already pending in another competent Court. The rule of res sub judice is the principle in the said provision.

11. In the application the contention of plaintiff is that the defendants not complied the direction given by Hon'ble Appellate Court in RA.28/2025 and this Court can't allow the defendants to pay the cost now as it against the judgment passed in RA.28/2025. Per contra the contention of defendants is that they are Government authorities and they have to follow the procedure to prepare a bill and in this regard the defendants No.3 intimated to defendant No.1 and 2 who are their higher authority and they have prepared the bill and the said delay is bonafide and also contended that there is no mention in the said appellate Court judgment what action has to be taken if the cost is not paid in time.

12. Admittedly RA.28/2025 was disposed on 25.04.2025 and the direction for the defendant to pay the cost of Rs.5000/- within one month from the date of order i.e., on or before 25.05.2025. As stated supra this Court received the file on 05.06.2025 i.e., after the said one month time and

when it is posted on 14.07.2025 the defendant No.3 official was present and they are ready to pay the cost, but on the same day the counsel for plaintiff has filed the present application and prays to stay the matter as it is against the order passed in RA.28/2025.

13. As stated supra the scope of Sec.10 of CPC is clear regarding stay of proceedings when the issue is directly and substantially same in previously instituted suit between the same parties. In this case the record not shows the previously instituted suit between the parties and as rightly contended by the AGP there is no further consequences mentioned in RA.28/2025, if the cost is not paid within one month. Further it is not the contention of the defendants that they are not ready to pay the cost, but their contention is they are paying now due to bonafide reasons. The above said reason appears to be genuine as the defendants are Government authorities and they have to do the bill as per the circular and procedure. Moreover the defendants have deposited the said cost of Rs.5000/- in Court on 29.07.2025. Hence it is appropriate to release the same in favour of plaintiff.

14. Further the Hon'ble Appellate Court in RA.28/2025 has given opportunity to the defendants to file their written-statement and directed this Court to give opportunity to both the parties to lead their evidences in accordance with law and also fixed the time of one year. Hence on considering the facts and circumstances, Sec.10 of CPC not at all applicable to the

present suit and it is filed without any grounds. Hence the present application is devoid of merits. In view of my discussions above, I am of the opinion that IA No.12 appears to be filed to drag the proceedings. Hence it has to be rejected. With these observations, **I answer the Point No.1 in the Negative.**

15. Point No.2: Accordingly, I proceed to pass the following;

--: O R D E R ::--

I.A No.12 filed by the plaintiff, U/Sec.10 r/w Sec.151 of CPC, is hereby rejected with the cost of Rs.200/-.

Further the office is hereby directed to release Rs.5000/- deposited by defendants on 29.07.2025 in favour of plaintiff after verification.

(Dictated to the Stenographer directly on computer and revised and corrected by me then pronounced in the open court, this the 21st day of November, 2025)

Sd/-

(SHEMIDA.K)

**I Addl. Civil Judge & JMFC
KGF**