

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

PRESENT:

**Sri. Shivaraju H.S.
B.A.Law., L.L.B,**

Prl. Civil Judge & JMFC, Nagamangala.

DATED THIS THE 4th DAY OF APRIL-2026

O.S.No.421/2024

PLAINTIFF : G.J.Shivashankara

V/s

DEFENDANTS : Dhananjaya and others.

PARTIES IN IA No.II

APPLICANTS : Dhananjaya and others..

..... Defendants

Versus

OPPONENT : G.J.Shivashankara

.... Plaintiff

ORDERS ON I.A.NO.II

The applicant/defendants have filed this application U/sec.10 R/w Section 151 of CPC praying to stay the further proceedings till disposal of O.S.No.202/2019 pending on the file of Addl. Civil Judge and JMFC., Nagamangala.

2. The defendant No.1 has filed affidavit along with the application. In the affidavit, it is stated that, the plaintiff has filed this suit against the defendants for the relief of permanent injunction in respect of suit property and the case is pending for cross-examination of PW1. Already, suit at O.S.No.202/2019 for partition and separate possession over the suit property is pending before Addl. Civil Judge and JMFC of Nagamangala. The defendants are entitled to get share in the suit property. But, the plaintiff created false and bogus gift deed dated 28.03.2019 and filed this suit. The said suit is on the same subject matter between the same parties. But the plaintiff being party in the previous suit filed present suit for injunction in respect of the suit property against the same parties. Therefore, it is prayed to stay the proceedings of this case until final order of O.S.No.202/2019.

3. The plaintiff has filed objection to the application by contending that the present suit is for the relief of permanent injunction and the previous suit at O.S.No.202/2019 is for partition. The plaintiffs in O.S.No.202/2019 are not parties in the present suit. Already, partition was effected in the family and same is admitted by the plaintiff in O.S.No.202/2019. Therefore, there is no

valid grounds to allow the application. Hence, it is prayed to reject the application.

4. Heard and perused the records.

5. Upon hearing and on perusal of materials placed on record, the following Points that would arise for my consideration:

POINTS

1) Whether present suit is required to be stayed from further proceedings in view of pendency of O.S.No.202/2019?

2. What Order?

6. My findings to the above points are as under :-

Point No.1 : In the Affirmative,

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

REASONS

7. **Point No.1:-** The plaintiff has filed this suit against the defendants for the relief of permanent injunction in respect of suit property.

8. Herein the application, the defendants are seeking stay of proceedings of this case until disposal of O.S.No.202/2019. It is contended that already suit at O.S.No.202/2019 for partition and separate possession is pending before Addl. Civil Judge and

JMFC., Nagamangala against the same parties. The plaintiff being party in the said previous suit again filed present suit against the same parties on the same subject matter.

9. Upon considering the pleadings of both parties to the suit, this Court is of the opinion that at the stage, it is useful to note Section 10 of CPC as follows:-

Section 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.*

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.*

10. A plain reading of Section 10 of CPC makes clear that where the subject matter of the suit is one and the same and parties are also the same, under such circumstances, if there are two suits

between the parties it is the subsequent suit which has to be stayed and not the previous owner. The object underlying section 10 of CPC is to avoid to parallel trials on the same issues by two courts and to avoid conflicting judgment and findings on issues which are directly and substantially involved in a previous suit. However, the provisions of this section mandatory and court before which the subsequent suit is pending ought to stay it, if all the conditions laid down in the section exist.

11. The essential conditions to be full filled before Section 10 of CPC can be attracted.

(1) There must be two suits, one that is already instituted and the other subsequently instituted.

(2) The subject matter in issue in the subsequent suit must be directly and substantially the same as the issue in the previous suit.

(3) The two suits must be filed on behalf of the same parties or their representatives.

(4) The earlier instituted suit must be pending in the same court in which the subsequent suit is brought or in any other

court in India or any court outside the limits of India established or continued by the Central Government or before the Supreme Court.

(5) The court in which the previous suit is instituted must be competent and have the jurisdiction to grant the relief sought in the subsequent suit.

(6) The parties must be litigating under the same title in both the suits.

(7) *a matter in issue in the later suit must be directly and substantially in issue the previously instituted the suit.*

12. The suit property of present suit is land bearing Sy.No.52/4 measuring 0 acre 17 guntas bounded towards East-Land of Papanna, West-Land of Puttalingegowda, North-Government Halla and South-Land of Rangegowda, situated at Govindaghatta Village, Belluru Hobli, Nagamangala Taluk.

13. Accordingly, item No.1 in the previous suit at O.S.No.202/2019 is none other than subject matter of the present suit. Even, plaintiff of this suit is also defendant No.4 in the said previous suit. The plaintiff is in the present suit claiming his exclusive possession over the suit property based on earlier

partition dated 27.12.2007 and gift deed dated 28.03.2019. The very same plaintiff, who is defendant No.4 in the previous suit also filed written statement and taken same contentions. Thus, it becomes clear that the parties, subject matter of the suit and also issue involved in the both suits are directly and substantially connected to each other.

14. As laid down in ***Manohar Lal Chopra v. Rai Bahadur Rao Raja Seth Hiralal***, reported in ***1961 SCC OnLine SC 17***, it was held that, if the above conditions are satisfied, a court cannot proceed with the subsequently instituted suit since the provisions contained in Section 10 are mandatory, and no discretion is left with the court. The order to stay the proceedings in the consequent suit can be made at any stage.

15. Another fundamental test for applicability of Section 10 is whether, on the final decision being reached in the previous suit, such decision would operate as res-judicata in the subsequent suit. This was laid down in the decision of ***National Institute of Mental Health & Neuro Sciences v. C. Parameshwara*** reported in ***(2005) 2 SCC 256***. Section 10 does not, however, limit the court's power to consider the merits of the case. It is up to the

court, if satisfied, to consider if a subsequent suit may be decided purely on legal grounds.

16. As note herein above, the plaintiff of this suit is defendant No.4 in the previous suit. The contention of the plaintiff in the present case on hand and also contention of defendant No.4 in the previous suit is also one and the same.

17. The documents produced by the defendants makes very clear that the previous suit filed by wife and children of late Javarappa @ Javaregowda, who is also father of plaintiff of the present suit is one for partition and separate possession over the one of the property of the present suit. The parties in the both suit are children of Javarappa @ Javaregowda. The subject matter of the suit is also one and the same. The issues involved in the both suits are directly and substantially inter-connected.

18. Therefore, upon considering all these fact and circumstances of the present case and also ratio held in the decisions referred supra, it is clear that there is a two suits in between same parties and on the same subject matter of the suit. Even, this court has

inherent power to stay the present subsequent suit and also has suo-moto power to do so. As such, this is a fit case to exercise powers conferred under section 10 of CPC as well as discretionary powers conferred under sec.151 of CPC. ***Hence, this Court answered Point No.1 is in the Affirmative.***

19. **Point N.2:-** For the reasons assigned above, this court proceeds to pass the following:-

ORDER

I.A.No.II filed by defendants under Section 10 of CPC is hereby allowed.

Accordingly, in view of provisions of Sec.10 of CPC., present suit is stayed from further proceedings.

Office to put up after final decision of OS.No.202/2019 pending on the file of Addl. Civil Judge and JMFC., Nagamangala

No order as to cost.

(Dictated to the Stenographer directly on the computer typed by him, corrected and pronounced by me in the open court on this the 4th day of April-2026).

**(Shivaraju H.S.)
Prl. Civil Judge & JMFC.,
Nagamangala.**