

**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC
NANJANGUD**

Present : Sri. Ganapathi Prashanth.M, B.A., LL.B.,
Senior Civil Judge, Nanjangud.

Dated : This the 21st day of November, 2019.

O.S.No. 26/2014

Plaintiff/s : Smt. J.Shashirekha and another

-V/s-

Defendant/s : J.Suresh and others

I.A. No.6 U/S 151 OF CPC

Applicant/s : Smt. J.Shashirekha and another
.... plaintiffs

-V/s-

Opponent/s : J.Suresh and others
... defendants

**ORDERS ON I.A. No.6 DATED 16.06.2017 UNDER
SECTION 151 OF CPC FILED BY PLAINTIFFS**

The plaintiff has filed I.A. No.6 dated 16.06.2017
Under Section 151 of CPC seeking to stay the further
proceedings in FDP No.24/2014 on the file of this court
pending disposal of this suit.

2. The defendant No.4 and 5 have filed objections.
3. Heard. Perused the pleadings and materials placed on record.
4. The points that arise for consideration are as follows:-
 1. Whether valid grounds are made out to stay further proceedings in final decree proceedings as prayed for?
 2. What order ?
5. The above points are answered as follows :-

Point No.1	: In the Negative
Point No.2	: As per final order for the following:-

REASONS

6. **Point No.1** :- The grounds urged for staying further proceedings is that plaintiffs were not parties to R.A. No.22/2009 and they were not call upon to participate in the said proceedings and hence possession in the said suit is not attributable to the plaintiff. The defendants have not offered cogent explanation for their attitude. The plaintiff and defendants were not in cordial terms and

hence, plaintiffs have 1/6th share per capita over the schedule properties and defendant No.4 and 5 are strangers in bloodline and pedigree. FDP Bi,24/2014 filed during the pendency of the suit would effect joint possession of the plaintiff over the schedule property and hence attempt to unsettled over the possession must be prevented stay in the further proceedings in Final Decree Proceedings.

7. The objections of the defendants is that earlier the application U/o 39 Rule 1 and 2 of CPC was filed and dismissed on considered order on 19.01.2015 and M.A. No.37/2015 on the file of Hon'ble V Addl District Judge, Mysore was also dismissed on 02.07.2016 and suppressing the same and contrary to Sec.41(a) of Specific Relief Act this application is filed to protract the proceedings. The allegation that there are fresh document discovered and give fresh adjudication is false. The applicant cannot be permitted to give up on the matter and in O.S. No.26/2014 while passing order on 23.10.2019 the court has opined

that those documents are not seen the day light for several decades and the parties are not permitted to deviate their pleadings and the applicant cannot be permitted to twist the facts and the grounds are not applicable to final decree proceedings and prayed to dismiss the I.A.

8. When the plaintiffs are alleging that the suit or FDP is not binding upon them, they will also claim that the the final outcome in the said proceedings will also not bind them. Hence, as it is only the shares that will be crystallized in the Final Decree proceedings, but the delivery of those crystallized shares will be effected during the execution of the said final decree, there is no immediate threat to the purported possession of the plaintiffs herein (not conceding that they are in possession thereof). Moreover, if the plaintiffs have got independent right or possession over the suit property, they can very well agitate the same under order 21 rule 97 of CPC (not conceding that they have such right if any). Hence, it is

totally unnecessary to stay the further proceedings in the FDP 24/2014, which is filed on the basis of the Preliminary decree which has attained finality after reaching the stage of SLP before the Hon'ble Apex Court. Hence, valid grounds are not made out for grant of stay as prayed for. Hence, point No.1 is answered in the Negative.

9. **Point No.2:-** In view of the finding on Point No.1, this court proceeds to pass the following:-

ORDER

I.A. dated 16.06.2017 filed by the plaintiff
under Sec.151 of CPC is hereby dismissed.

(Dictated to the Stenographer and transcribed by her corrected, initialed and then pronounced by me in open Court on this the 21st day of November 2019).

(Ganapathi Prashanth.M)
Senior Civil Judge, Nanjangud.

**Order pronounced in the open court,
vide separate order**

ORDER

I.A. dated 16.06.2017 filed by
the plaintiff under Sec.151 of CPC is
hereby dismissed.

Senior Civil Judge, Nanjangud.

