



**IN THE COURT OF THE ADDL.SENIOR CIVIL
JUDGE, KUNIGAL**

Present

Smt. Gangavva Ayatti

B.A.LL.B. (Hon's)

Addl. Senior Civil
Judge and JMFC,
Kunigal.

DATED THIS THE 01ST DAY OF JUNE 2026

OS.No.35/2021

Plaintiff : Smt.Gowramma.

(By Sri. M.L.P., Advocate)

-V/s-

Defendants : Raju and others.

(D1 to 7, 9 by Exparte and D8 by Sri.
Y.R.H., Adv)

::IA.No.VII::

Applicants : Mahesha.R.

-V/s-

Opponents : Smt.Gowramma.

1.Provisions under which the application is filed:	U/section 10 R/W section 151 of CPC.
--	--------------------------------------



2. Relief Sought for :	Stay of further proceedings.
3.The date on which the application is filed:	30.07.2025.
4.Number of the application :	I.A.No.VII.
5.The date on which the objections are filed by different Opponents:	15.11.2025.
6.The date on which the orders were passed on the said application :	01.06.2026.

::ORDERS ON IA No.VII::

The present IA is filed by the applicant/defendant No.7 for stay of further proceedings of the case till disposal of OS.No.194/2009 on the file of Addl. Civil Judge and JMFC, Kunigal when the case was posted for further cross of PW1.

2. In the annexed affidavit it is contended that, the plaintiff has filed the present suit for the relief of partition and separate possession of other properties. One C.M.Rangaiah and others have also filed suit for partition with respect to suit schedule properties on the file of Addl. Civil Judge and JMFC, Kunigal in O.S.No.194/2009 against the defendants and the present plaintiff. The said suit is pending for adjudication which is itself is sufficient to hold that the



present suit cannot be prosecuted in any manner and the subject matter of the case are one and the same. On the face of the record itself very much clear that the proceedings before the Addl. Civil Judge and JMFC Kunigal and this court are one and the same and also the relief claimed is one and the same. In view of the same the further proceedings of the case may be stayed till disposal of the suit in OS.No.194/2009. Hence prayed to allow the IA No.VII.

3. The plaintiff resisted the application by filing objections and prayed to reject the IA. The plaintiff has denied the averments made in the affidavit and contended that, the plaintiff and defendants are having right, title and interest over the suit properties. One C.M.Rangaiah has filed suit in OS.No.194/2009 on the file of Addl. Civil Judge and JMFC at Kuniga filed suit for the relief of partition and declaration. In the said suit the plaintiff is made as defendant No.10. In the said suit the defendant No.1 to 5, 9, 10 are having right over the suit A schedule properties and the plaintiff and defendant No.6 to 8 have no right, title and interest over the properties. The said suit is filed only to make illegal gain in the properties belonging to plaintiff and defendant No.6 to 8. In this regard only to drag the proceedings the present IA is filed and prayed to dismiss the IA.



4. Heard arguments on both sides.

5. The points that arise for my consideration are:-

1. Whether the applicant has made out grounds to allow IA No.VII ?
2. What order?

6. My answer to the above points are:-

Point No.1: In the Affirmative.

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

REASONS

7. **POINT NO.1:-** The main contention of the defendant No.7 is that one C.M.Rangaiah and others filed for partition with respect to the suit schedule properties against the defendants including the plaintiff. The subject matter, parties and the relief claimed are one and the same. On the other hand the plaintiff has also admitted filing of the suit by one C.M.Rangaiah for the relief of partition and declaration but herself contention is that the defendant No.1 to 5 and 9 have right over the A-schedule property only and they have no right over the remaining properties. Only with an intention to deprive the right of the defendant No.1 to 5 and 9, 10 they have filed the said suit.



8. On perusal of the materials available on record it appears that, the suit in OS.No.194/2009 on the file of Addl. Civil Judge and JMFC at Kunigal was filed by one C.M.Rangaiah and others against Rangappa and others and in the said suit the plaintiff is also party. The said suit is filed for the relief of partition and separate possession also for declaration including the suit schedule properties. The subject matter and properties to the suit of the said case and present are one and the same and also the relief claimed is also one and the same. The plaintiff in her objections itself admitted as to filing of the suit by one C.M.Rangaiah and others and also she made as party to the said proceedings but her contention is that the defendants are not having share over the suit properties and she has not taken up in specific contention as to why the present applicant can not be considered. Even in her cross examination she admitted as to filing of suit.

9. In order to attract sec 10 of Civil Procedure Code there must be a suit already filed and pending before a competent court. The matter directly and substantially in issue in both suits must be identical. The parties involved in both suits should be the same, or their representatives. The parties should be litigating under the same title. The previously instituted suit must be pending before a court that has the jurisdiction to grant the relief claimed. In the



case on hand it appears the suit in OS.No.194/2009 is pending between the same parties and the subejct matter and relief claimed is one and the same as such the said suit being the first suit and the present suit being the subsequent suit a subject matter and parties being one and the same the present suit needs to be stayed till disposal of the suit in OS.No.194/2009. Hence grounds made out to allow IA No.VII accordingly, point No.1 is answered in the Affirmative.

10. **POINT NO.2:** For the reasons stated on point No.1 above, I proceed to pass the following;

ORDER

IA No.VII filed by the
applicant/defendant No.7 U/Sec.10 of
CPC seeking stay of the proceedings of
the case till disposal of suit in
OS.No.194/2009 is hereby allowed.

(Dictated to the stenographer transcribed corrected and then pronounced by me in the open court on this **the 1st day of June 2026**)

sd/-

Addl. Senior Civil Judge
and JMFC, Kunigal.

KATK500002502021



KATK500002502021

