

IN THE COURT OF PRL. CIVIL JUDGE & JMFC., AT SIRA

Dated this the 10th day of June 2020

PRESENT: Smt. ASHA K.S.

B.A. L., LL.B.,
Prl. Civil Judge & JMFC., Sira

O.S. NO. 215/2014

PLAINTIFF : Gundaiah @ Gundappa

/Vs/

DEFENDANTS : Narasamma & others

IN I.A. No.11

APPLICANTS : Lakshamma & others

...Defendants No.3 to 6

/Vs/

OPPONENT : Gundaiah @ Gundappa

.....Plaintiff

Orders on I.A. No.11

The defendants have filed this application U/Sec. 10 of CPC and prays to stay this suit till disposal of O.S. No. 18/2014 on the file of Hon'ble Senior. Civil Judge, at Sira.

2. In the annexed affidavit, it is stated that the plaintiff has filed the suit for partition and separate possession against

this applicants and other defendants. It is further stated that these applicants and other defendants filed O.S. No. 18/2014 before the Hon'ble Senior Civil Judge at Sira for the relief of declaration and injunction. Even though it is within the knowledge of plaintiff, he intentionally filed this suit only to harass the defendants. There is no cause of action for filing this suit. Hence, prays to allow the I.A.

3. On the other hand, the plaintiff has filed objection and contended that the application is not maintainable. In the application, there are no materials to allow the I.A. It is further contended that this suit is for the relief of partition and separate possession and O.S. No. 18/2014 is for the relief of declaration and injunction. The parties and properties in both the suits are not one and the same. There are no ingredients to stay the suit as contemplated U/Sec. 10 of CPC. Hence, prays to dismiss the I.A.

4. Heard the arguments, perused the I.A. and affidavit averments.

5. The points that arise for my consideration are;

1. Whether the application filed by the defendants/applicants U/Sec. 10 of CPC is deserves to be allowed?
2. What Order?

6. My answer to the above points is as under;

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

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 partition and separate possession. The defendants have come up with this application with a prayer to stay the present suit till disposal of O.S. No. 18/2014.

8. On perusal of record, it is noticed that the parties and properties involved in both the suits are entirely different. The relief sought by the parties are also different. As per Sec. 10 of CPC, subsequent suit has to stay if parties are same, subject matter is same and the relief in both the suits are same. As stated above, present suit is subsequent to O.S. No. 18/2014, but relief is different. Both the parties produced

plaint copies of both suits. These documents clearly show that the relief, parties and properties of O.S. No. 18/2014 and O.S. No. 215/2014 are entirely different. It shows that there are no ingredients to stay this suit. Hence, I answer point No.1 in the **Negative**.

9. POINT NO.2: For the reasons stated above, I proceed to pass the following;

ORDER

I.A. filed by the Defendants/Applicants
U/Sec.10 CPC is hereby rejected.

(Dictated to the stenographer, transcribed, computerized and printout taken by her, then corrected and pronounced by me in the open court on **10.06.2020**)

(ASHA K.S.)
Prl. Civil Judge & JMFC.,
Sira

Defendants' evidence by 01.07.2020.

**Prl. Civil Judge & JMFC.,
Sira**

