ORDER BELOW EXH.23 IN R.C.S.NO.89/2026

(CNR No.MHSN120005872026)

This is an application filed by defendants under Sec.10 of C.P.C.

2. It is submitted by defendants that they have filed suit for removal of encroachment in respect of Gat No.445 bearing RCS No.4/2024, plaintiffs appeared in the said suit but failed to file their written statement, therefore the matter proceeded without written statement of plaintiffs. It is submitted by defendants that issues involved in the present suit are same which are involved in RCS No.4/2024, plaintiffs have filed the present separate suit on the issues which are directly and substantially same in RCS No.4/2024, RCS No.4/2024 is pending, therefore the suit is hit by Sec.10 of C.P.C. Hence, he prayed that application be allowed and suit be stayed till final decision of RCS No.4/2024.

3. Plaintiffs by filing their say at Exh.26 denied each and every adverse ascertain made against them. They further submitted that the application is false and frivolous, defendants have filed RCS No.4/2024 for removal of encroachment, fixation of boundaries, recovery of possession and injunction, they have filed the present suit for declaration against the order of Tahasildar in BND/SR/17/2023 being illegal , the issues involved in present suit and in RCS No.4/2024 are different, there is no cause of action to file the preset application, same is not tenable in the eyes of law, therefore they prayed that application is rejected with costs.

4. Heard Ld. Shri.V.S. Walujkar for defendants and Shri.V.G. Jadhav for plaintiffs at length.

5. Ld. Advocate for defendants argued that defendants have filed a suit for removal of encroachment, fixation of boundaries, recovery of possession and injunction against plaintiffs bearing RCS No.4/2024 in respect of land bearing gat No.445, the issues involved in present suit and in RCS No.4/2024 are directly and substantially are same, parties to the litigation are also same, therefore as the present suit is hit by the provisions of Sec.10 of C.P.C., therefore he prayed that application be allowed, and present suit stayed till decision RCS No.4/2024.

6. On the contrary, Ld. Advocate for plaintiffs argued that, plaintiffs have filed present suit against the order of Tahasiladar, issues involved in the present suit and in RCS No.4/2024 are different, the application is false and frivolous and same is not tenable in the eyes of aw. Therefore, he prayed that application be rejected with cost.

7. Before considering the present application let us consider the scheme under Sec.10 of C.P.C. Sec.10 of C.P.C. provides the doctrine of res- subjudice. To apply Sec.10 of C.P.C. certain conditions as embodied in Sec.10 to be fulfill, i) There must be two separate suits filed, one is to be previously instituted suit, ii) The matter in issue in both suit must be directly substantially same and iii) The parties involved in both suit litigating under same title, the court is empower to decide suit.

8. The main object of Sec.10 of is to protect simultaneous proceeding and contrary decisions and to protect litigants from contesting multiple suits on same matter. With this legal position let us consider the facts of present case.

9. Upon perusal of record, it appears that plaintiffs have filed the present suit against the order of Tahasildar and sought declaration. From the perusal of record it appears that plaintiff in the present suit is not party in proceeding/matter before Tahasildar. From the record it appears that defendants have filed a suit for removal of encroachment, fixation of boundaries, recovery of possession and injunction in respect of Gat No.445 bearing RCS No.4/2025 against plaintiff and others, and the same suit is pending. From the record it appears that the present suit is filed against the order of Tahasildar whereas the RCS No.4/2024 came to be filed for removal of encroachment, though from the record it appears that some of the parties in both the suits are same, but the cause of action to file both suits are different, the issues involved in the both suits altogether different, the properties involved in both suits are are different, and the issues are not directly and substantially one and the same in both suits, therefore considering the same the present suit is not hit by Sec.10 of C.P.C. Therefore, the application is devoid of merit and same is liable to rejected . Hence, I pass the following order.

ORDER

1. Application at Exh.23 is hereby rejected.
2. Parties to take note of this order.

SHAIKH MOHAMMED AAMER

Digitally signed by SHAIKH MOHAMMED AAMER
Date: 2026.07.29 16:47:26 +0530

Palus. (M.A.M.J. Shaikh)
Date:- 29.07.2026. Civil Judge Jr.Dn., Palus.

C E R T I F I C A T E

I affirm that, the contents of this P.D.F. file are same, word to word, as per the original Order.

Name of the Stenographer	:	Sou.G.A. Patil (Grade-3)
Court	:	M.A.M.J. Shaikh, Civil Judge Junior Division & Judicial Magistrate First Class, Palus, Dist. Sangli.
Date	:	29.07.2026
Order signed by the Presiding officer on	:	29.07.2026
Order uploaded on	:	29.07.2026