



ORDER BELOW EXH.9.

(CNR No.MHWS110010132025)

**Shyamsundar Kamalkishor Agrawal & Anr. Vs. M.s.
Deepika Udyog, a partnership firm through its
partners Mr. Manoj Satyanarayan Agrawal & Ors.**

1] Present application has been filed by defendants under Section 10 of the Code of Civil Procedure, 1908 thereby praying for staying the trial of present suit till the final decision of Spl.C.S. No.1/2022.

2] Perused application, reply filed by plaintiffs at **Exh.13** and documents on record. Also heard Ld. Advocates appearing for respective parties at length.

3] Ld. Advocate for defendants has submitted that plaintiffs have filed present suit for eviction, possession, arrears of rent and damages which is not tenable in the eyes of law. Present suit is a counter blast to the Spl.C.S. No.1/2022 which has been filed by the defendant. It is further submitted that in said Spl.C.S. No.1/2022, the plaintiffs herein are defendant Nos.4 and 5. It means that parties in the present suit and in said Spl.C.S. No.1/2022 are the same. Moreover, the cause of action is also same in the present suit as well as in the said Spl.C.S. No.1/2022. Not only this, reliefs sought in both the suits are also the same. Apart from this, suit property in the present suit is also the same as described in the said Spl.C.S. No.1/2022. As such, the trial of present suit is required to be stayed till the final disposal of said Spl.C.S. No.1/2022. Hence, learned advocate for defendant has prayed for grant of this application.

4] On the contrary, learned advocate for plaintiffs has strongly objected present application on the ground that present application is nothing but the abuse of process of law as it came to be filed with a view to prolong the matter and to harass the plaintiffs. It is further submitted that the defendants have not come before the Court with clean hands and they have deliberately made false allegations in the present application. It is further submitted that the provisions of Section 10 of C.P.C. are not attracted and therefore, the defendants have no right to file present application.

5] It is further submitted that the contention of the defendants that the parties in both suits are also the same is totally false. In Spl.C.S. No.1/2022 filed by the defendant No.1 herein, there are in all 13 parties. However, in the present suit there are only few parties. Similarly Padmini Ratnakar Deshpande and Shripad Krushnarao Wadekar, State of Maharashtra through Collector, Sub-Divisional Officer, Karanja, who are defendants in the said Spl.C.S. No.1/2022 are not parties in the present suit. Not only this, defendant Nos.2 and 3 herein are not the parties in the said Spl.C.S. No.1/2022.

6] It is further submitted that even the contention of the present defendants that the subject matter of the suit property in both the suits is same, is also not correct. It is submitted that in the said Spl.C.S. No.1/2022, the subject matter of the dispute is land admeasuring 6209 Sq. Mt. However, in the present suit, the subject matter of the suit property is only 1673. Sq. Mt. as described in para No.1 of the plaint. Thus, it can't lie in the mouth of the defendants that the subject matter of suit property in both the suits is same.

7] It is further submitted that the cause of action in both the suits is also not the same. Perusal of complaints of both the suits will reveal that the reliefs claimed by the plaintiffs in the respective suits are altogether different. Even the cause of action in both the suits are totally different. It is submitted that the issues involved in both the suits are totally different. Thus the present application filed by the defendants is liable to be rejected with costs. Hence, learned advocate for plaintiffs has prayed for rejection of this application by relying upon judgments of the Hon'ble Supreme Court and the Hon'ble Delhi High Court in following cases -

- i) **National institute of Mental Health and Neuro Sciences Vs. C. Parmeshwara, AIR 2005 SC 242**
- ii) **British India Corporation Limited Vs. Rashtraco Freight Carriers, 1996 (4) SCC 748**
- iii) **Smt. Sneh Lata Mathur Vs. Brij Raj Bahadur & Ors, AIR 2003 Delhi 259**

8] Having regard to the submissions of learned advocates for respective parties and also considering documents on record, I find substance in the submissions of learned advocate for plaintiffs. It is to be noted here that in present suit, reliefs for eviction, possession, arrears of rent and damages are sought. However, in the Spl.C.S. No.1/2022, reliefs for declaration, permanent injunction, mandatory injunction and cancellation of sale deed are sought. It means that reliefs sought in both the suits are totally different. Not only this, all the defendants in said Spl.C.S. No.1/2022 are not the party defendants in the present suit. Not only this, defendant Nos.2 and 3 herein are not the parties in the said Spl.C.S. No.1/2022. Moreover, suit properties in both the suits are also not the same.

Even the cause of action in the both suits are not the same. As such, the decision in said Spl.C.S. No.1/2022 will not operate as res-judicata in the present suit and it is the fundamental test for applicability of Section 10 of C.P.C. as observed by the Hon'ble Supreme Court in the case of **National institute of Mental Health and Neuro Sciences Vs. C. Parmeshwara** as cited supra. Thus, I do not think it just and proper to allow this application. Hence, I proceed to pass the following order -

ORDER

- 1] Application is rejected.
- 2] No order as to costs.
- 3] Parties to the suit shall take note of this order.

Date - 04/03/2026.

(S. W. Thombre)
Civil Judge, (Sr.Dn.),
Karanja (Lad).

CERTIFICATE

I affirm that the contents of this PDF file judgment/order are same word to word, as per original judgment/order.

- 1) Name of Stenographer :- S. P. Kale (Stenographer G-III)
- 2) Name of Court :- Civil Judge (S.D.), Karanja.
- 3) Date :- 04/03/2026
- 4) Order signed by the
presiding officer on :- 04/03/2026
- 5) Order uploaded on :- 06/03/2026