

IN THE COURT OF THE DISTRICT MUNSIF, SANKARI

Present: Tmt. R. ELAMATHI, B.A., B.L.,
District Munsif Court, Sankari

Saturday, the 06th day of December, 2025

திருவள்ளூர்வராண்டு 2056, விசுவாவசு வருடம், கார்த்திகை திங்கள் 20-ம் நாள் சனிக்கிழமை

I.A. 2/2021 in O.S.28/2017

S.M.Krishnan

... Petitioner / Plaintiff

//Versus//

1.Manickam

2.Ramar

... Respondents / Defendants

This petition came up for final hearing before me in the presence of Thiru. R.Ramasamy Advocate for the Petitioner/Plaintiff and Respondents were remained exparte and after perusing the case records and hearing on petitioner side, this Court passed the following,

ORDER

This Interlocutory Application has been filed by the petitioner/plaintiff under Sec.10 of C.P.C to stay all further proceedings in the present suit, till the commencement of trial in O.S.No.209/2014 pending before this court.

2) The Gist of the petition:-

2.1) The petitioner submits that he is the plaintiff in the above suit. The petitioner filed the above suit against the respondents for the relief of damages for a sum of Rs.20,000/- for destruction of the uthi, vari,vaikkal situate in S.No. 20/2.

2.2) The petitioner submit that the respondents had filed their written statement and stating that the petitioner have no right to get the damages, since the petitioner have no such share in the well portion. The petitioner have filed O.S.No. 209 of 2014 on the file

of this court against the respondents and others in respect of the suit well regarding sale deeds in favour of the 2nd respondent is null and void. The above suit is pending for consideration. Earlier, the petitioner have filed interim injunction petition in above O.S.No.209 of 2014 and the same was dismissed by this court, then the petitioner have filed C.M.A. No. 1 of 2016 on the file of Hon'ble Subordinate Court of Sankari and the same is pending.

2.3) The petitioner further submit that, the petitioner right has to be decided in above suit, at the same time the petitioner claiming only damages in this suit. Under these circumstances, if trial of this suit commenced the same will be affected for deciding right of well in the suit property. Hence the petitioner filed this petition to stay the further proceedings in this suit. Unless this petition is allowed, the petitioner will be put to irreparable loss and hardship

3) On 18.02.2022, the 1st respondent was set exparate due to his Non-appearance. The 2nd respondent was set exparate on 07-11-2025 due to non filling of his counter.

4) **Points for Consideration:**

Whether the Petitioner is entitled for the relief as prayed for?

5) No oral and documentary evidences were adduced on petitioner's side.

6) Heard the Learned counsel for petitioner Records perused. This Interlocutory application has been filed by the petitioner/plaintiff Under Sec 10 of C.P.C to stay all further proceedings in the present suit, in O.S.No.28/2017 till the commencement of trial in O.S.No.209/2014 pending before this court. The case of the petitioner is that he had filed the present suit for claiming Rs.20,000/- as damages for alleged destruction of uthi, vari, and vaikkal situate in S.No.20/2. The petitioner further submits that, the Respondent's in their written statement deny the petitioner's right to damages by contending that the petitioner has no share in the well portion and therefore no right

to get damages. The petitioner's further states that, he has already filed O.S.No.209/2014 for challenging certain sale deeds regarding the suit well as null and void, and that the determination of petitioner's right over the well in O.S.No.209/2014 will directly affect his claim in the suit. The petitioner further stated that, the injunction petition in O.S.No.209/2014 was dismissed and against the injunction petition order the petitioner preferred CMA No.1/2016 and the same is pending before the Honourable Sub Court, Sankari. Hence this petition.

6.2) Upon careful consideration of contentions of the Petitioner side, this court is bound to elucidate the scope of Sec 10 of Code of Civil Procedure, the court can stay a Subsequently filed suit only if,

- i) The previously instituted suit is pending before the competent court,
- ii) The matter in issue is directly and Substantially in same,
- iii) The parties are the same (or) litigating the same title while looking into the present case in hand, the O.S.No.209/2014 concerns in respect of rights in the suit well, where as the present suit in O.S.No.28/2017 seeks damages for destruction of uthi, vari, vaikkal situate in S.No.20/2. The existence, validity and effect of the sale deed relating to the well which the petitioner has challenged in O.S.No.209/2014 are thus substantial issues in both suits. The decision in O.S.No.209/2014 regarding the title and rights in the suit well will directly govern and control the petitioner's capacity to maintain the damages claim in this suit. Therefore, the issues are not merely incidental but are fundamental and the requirements of section 10 of Code of Civil Procedure Code stands satisfied. Based upon the discussions made above, this court is of the considered opinion as considering the nature of controversy, the interconnected issues and the pending challenge to the sale deed in O.S.No.209/2014, this court is at satisfied that continuation of the present trial without determination of

rights, in the earlier suit would cause serious prejudice and would complicate the adjudication.

7) In Result, this Interlocutory Application is allowed and the present suit in O.S.No.28/2017 is hereby stayed until, the commencement of trial in O.S.No.209/2014. No cost.

This order directly dictated to the Steno Typist and typed by her and corrected by me, and Pronounced in the Open Court in the 06th day of December, 2025.

**District Munsif,
Sankari.**

Encl:

Petitioner side Witnesses & Exhibits:- NIL

**District Munsif,
Sankari**

District Munsif Court, Sankari.
Draft / Fair Order
I.A.2/2021 in
O.S.No.28/2017
Date: 06.12.2025
