



CNR: KAHC010404492026

NC: 2026:KHC:42437
WP No. 18482 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO.18482 OF 2026 (GM-CPC)

BETWEEN:

SRI. B.S. KUMAR @ B SENDHIL KUMAR
S/O LATE BANGARU
AGED ABOUT 53 YEARS
R/AT NO.49, 2ND MAIN,
BYRAVESHWARANAGAR,
NAGARABHAVI MAIN ROAD,
BENGALURU – 560 072

...PETITIONER

(BY SRI. K.N. NITISH, ADVOCATE FOR
SRI. K V NARASIMHAN, ADVOCATE)

AND:

1. SMT. SHANTHI. T.RAM
W/O MR. N THUKARAM
AGED ABOUT 54 YEARS
REPRESENTED BY
HER DULY AUTHORIZED
POWER OF ATTORNEY HOLDER AND
HER HUSBAND MR. N THUKARAM

2. MR. N THUKARAM
S/O LATE M. NATESH
AGED ABOUT 62 YEARS

BOTH R/AT NO.11/12,
4TH CROSS, NEW KALAPPA BLOCK,
SRIRAMAPURA,
BENGALURU – 560 021

...RESPONDENTS

(BY SRI. DEVARAJA K.S., ADVOCATE FOR C/R1 AND R2)



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THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 02.06.2026 PASSED IN O.S NO.2924/2024 ON IA NO.3 BY THE XVI ADDL. CITY CIVIL & SESSIONS JUDGE, BANGALORE AT ANNEXURE-J AND ETC

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 01.07.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CAV ORDER

Aggrieved by the order dated 02.06.2026 passed in I.A.No.3 in O.S.No.2924/2024 by the XVI Additional City Civil and Sessions Judge, Bangalore, the petitioner/defendant is before this Court.

2. The respondents herein, who are the plaintiffs, have filed O.S.No.2924/2024 seeking the relief of recovery of mortgage money. In the said suit, the petitioner/defendant has filed I.A.No.3 under Section 10 read with Section 151 of the CPC seeking stay of further proceedings in O.S.No.2924/2024. That application was rejected by the impugned order.

3. While rejecting the application, the trial Court observed that O.S.No.4910/2023 was filed by plaintiff No.2 to



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enforce the agreement of sale dated 20.03.2021, which appears to be in respect of the same property which is the subject matter of the suit. The present suit has been filed by two plaintiffs to recover money along with interest, based on a mortgage deed dated 17.11.2014 and another mortgage deed dated 23.12.2019, with 18% interest per annum. It is further observed that, in the earlier suit, the issues relating to these two mortgages were also part of the litigation between the same parties. However, issue No.6 framed in O.S.No.4910/2023, which is directly on the subject of mortgage, does not match the issues framed by this Court in the present suit. This is because issue No.6 concerns the discharge of the mortgage deeds dated 17.11.2014 and 23.12.2019, whereas in the present suit the issue of discharge of mortgage is not raised by any of the parties, and the remaining issues do not match with each other.

4. The trial Court further observed that in O.S.No.4910/2023, a total of seven issues have been framed, in addition to one formal issue, and in the present suit, four issues have been framed, in addition to issue No.5, which is a



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formal issue in every civil litigation. However, none of the issues framed in both suits are identical, which is a primary condition for invoking the provisions of Section 10 of the Code of Civil Procedure, 1908, to stay further proceedings of the suit instituted subsequent to O.S.No.4910/2023. Thus, the trial Court was of the view that when the issues are not identical, the question of staying further proceedings of the suit in view of the pendency of the earlier suit in O.S.No.4910/2023 does not arise. Accordingly, the trial Court rejected the application.

5. Learned counsel appearing for the petitioners/defendants submits that the trial Court erred in declining to grant the prayer in I.A.No.3 on the ground that there are two plaintiffs in O.S.No.2924/2024 and it is for recovery of money along with interest based on mortgage deeds dated 17.11.2014 and 23.12.2019, and that the subject of the mortgage does not match the issues framed in the other suit in O.S.No.4910/2023. However, a mere perusal of the issues framed in both suits demonstrates that the subject matter of the mortgage and even the cause of action are substantially the same. It is submitted that the trial Court erred in rejecting the application.



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Learned counsel for the petitioner had drawn the attention of this Court to the issues framed by the trial Court. In O.S.No.2924/2024, the trial Court had framed the following issues:

- 1) "Whether the plaintiffs prove the execution of Mortgage Deed dated 17.11.2014 by the defendants after receiving an amount of Rs.20 lakhs?**
- 2) Whether the plaintiffs further prove execution of the Mortgage Deed dated 23.12.2019 by the defendants after receiving the amount of Rs.17 lakhs in their favour?**
- 3) Whether the plaintiffs are entitled to recover the mortgage money with 18% interest p.a., from 17.12.2014 and 23.12.2019 respectively?**
- 4) Whether the plaintiff is entitled for the reliefs?**
- 5) What order or decree?"**

6. In O.S.No.4910/2023, the issue Nos.3 and 6 read as follows:

- 3) "Whether the plaintiff proves that the defendant is liable to adjust a sum of Rs.40,00,000/- towards the balance consideration under their agreement dated 20.03.2021, out of the due amount of Rs.52,27,230/- payable by the**



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defendant to the plaintiff under the mortgage deeds dated 17.11.2014 and 23.12.2019?

6) Whether plaintiff is entitled for direction to the defendant to discharge the mortgage deed dated 17.11.2014 and 23.12.2019?"

7. Relying on this, it is submitted that when the issues in both cases are identical, the trial Court ought to have exercised its jurisdiction under Section 12 of the CPC.

8. Learned counsel appearing for the respondents/ plaintiffs submits that the trial Court rightly considered and dismissed the application because Section 10 of the CPC is not applicable in the present case. Learned counsel has relied on the judgment of the Apex Court in case of ***National Institute of Mental Health and Neuro Sciences Vs. C. Parameswara¹***, on paragraph Nos.8, 9 and 10 which reads thus:

"8. The object underlying Section 10 is to prevent Courts of concurrent jurisdiction from simultaneously trying two parallel suits in respect of the -same matter in issue. The object underlying Section 10 is to avoid two parallel trials on the same issue by two Courts and to avoid recording of conflicting findings on issues which are directly and substantially in issue in

¹ (2005) 2 SCC 256



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previously instituted suit. The language of Section 10 suggests that it is referable to a suit instituted in the civil Court and it cannot apply to proceedings of other nature instituted under any other statute. The object of Section 10 is to prevent Courts of concurrent jurisdiction from simultaneously trying two parallel suits between the same parties in respect of the same matter in issue. The fundamental test to attract Section 10 is, whether on final decision being reached in the previous suit, such decision would operate as res-judicata in the subsequent suit. Section 10 applies only in cases where the whole of the subject matter in both the suits is identical. The key words in Section 10 are "the matter in issue is directly and substantially in issue" in the previous instituted suit. The words "directly and substantially in issue" are used in contra-distinction to the words "incidentally or collaterally in issue". Therefore, Section 10 would apply only if there is identity of the matter in issue in both the suits, meaning thereby, that the whole of subject matter in both the proceedings is identical.

9. In the present case, the appellant had initiated the disciplinary proceedings against the respondent herein on charges of misappropriation of drugs. In the said disciplinary proceedings, the respondent was found guilty of alleged misappropriation of drugs. On the basis of the findings arrived at in the disciplinary enquiry, the respondent herein was removed. The extent of the loss suffered by the appellant, as found in the disciplinary enquiry, was Rs. 1,79,668.46. Being aggrieved by the order of dismissal, the respondent moved the Labour Court. On 29.10.2001, the Labour Court passed an award setting aside the order of removal dated 12.4.1993. Being aggrieved, the appellant instituted writ petition No. 24348/02. The appellant has also instituted civil suit No. 1732/95 for recovery of the loss suffered by it to the tune of Rs. 1,79,668.46 with interest. Thus, as can be seen from the above facts, both the proceedings operated in different spheres. The subject matter of the two proceedings is entirely distinct and different. The cause of action of the two proceedings is distinct and different. The cause of action in filing the said suit is the loss suffered by the appellant on account of the shortage of drugs. On the other hand, in the said writ petition No. 24348/02, the management has



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challenged the award of the Labour Court granting reinstatement of the respondent

10. As stated above, Section 10 CPC is referable to a suit instituted in a civil Court, The proceedings before the Labour Court cannot be equated with the proceedings before the Civil Court. They are not the Courts of concurrent jurisdiction. In the circumstances, Section 10 CPC has no application to the facts of this case."

9. Relying on this, it is submitted that the trial Court has rightly passed an order, and no interference is called for with the well-considered order.

10. Having heard the learned counsel on either side, perused the material on record. Section 10 of the CPC reads as follows:

"10. Stay of suit.—No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in 1 [India] have jurisdiction to grant the relief claimed, or in any Court beyond the limits of 1 [India] established or continued by 2 [the Central Government 3 ***.] and having like jurisdiction, or before 4 [the Supreme Court].

Explanation.—The pendency of a suit in a foreign Court does not preclude the Courts in 1 [India] from trying a suit founded on the same cause of action."



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11. Section 10 of the CPC applies where the matters in issue are substantially identical, so that adjudication of the later suit would involve determining the same controversy already pending in the earlier suit. The test often applied is that the decision in the earliest suit would operate substantially as res judicata in the subsequent cases. Section 10 of the CPC embodies the rule relating to the stay of a subsequently instituted suit. The object of the provision is to prevent a court of concurrent jurisdiction from simultaneously trying two parallel suits. In respect to the same substantial controversy, it seeks to avoid multiplicity of proceedings and, more importantly, the possibility of conflicting decisions on the same matter. At the same time, Section 10 of the CPC cannot be invoked merely for the sake of convenience.

12. The conditions incorporated in the provision are required to be satisfied before the trial of a subsequently instituted suit can be stayed. Hence, for the application of Section 10 of the CPC, there must be two suits, one instituted earlier and the other subsequently, with the matter directly and substantially in issue. In the previously instituted suit, the



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earlier proceedings must be between the same parties or between parties under whom they or any of them claim. The parties must be litigating under the same title, and the Court in which the earlier suit is pending must be competent to grant the relief involved in the subsequent proceedings. Hence, the crucial requirement is that the expression directly and substantially in issue assumes significance.

13. This Court, in the preceding paragraphs, has already considered the issues framed in both cases. One of the issues is identical in both cases. Section 10 of the CPC seeks to prevent not merely duplication of evidence but simultaneous adjudication of substantially the same case by two different courts. Hence, when considering an application under Section 10 of the CPC, the Court should not decide the matter merely by comparing the issues formally framed in the two suits. Issues are framed on the basis of pleadings. The wording of issues may sometimes appear identical even though the nature and scope of the reliefs in the two proceedings are materially different. This Court has perused the pleadings in the suits, the



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cause and foundation of the respective claims, the rights accepted by the parties, and the principal defenses.

14. Considering the disputes between the parties and the issues framed, this Court finds force in the argument of the learned counsel for the petitioner. The trial Court has failed to exercise the jurisdiction under Section 10 of the CPC. Hence, this Court is passing the following order:

ORDER

- i. The order dated 02.06.2026 passed in I.A.No.3 in O.S.No.2924/2024 by XVI Addl. City Civil and Sessions Judge, Bengaluru, is ***set aside***. Consequently, I.A.No.3 is **allowed**.
- ii. Accordingly, the writ petition is ***allowed***.
- iii. All I.As. in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

MEG
List No.: 1 Sl No.: 3