

**CR-3496-2015 (O&M)**

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CR-3496-2015 (O&M).**

**Decided on: May 20, 2015.**

**Smt.Dhapi**

**..... Petitioner(s)**

**Versus**

**Kanchan Ranolia and others**

**..... Respondent(s)**

**\* \* \***

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI**

**PRESENT Mr.Ashok Verma, Advocate,  
for the petitioner.**

**M.M.S. BEDI, J (ORAL).**

Vide impugned order dated 7.5.2015, the trial Court has dismissed the application filed by the petitioner-defendant No.2 under Section 10 CPC to seek staying proceedings in a suit filed by plaintiff-respondent Nos.1 to 4. The claim of the petitioner is that she had earlier filed a suit on the subject matter pertaining to the same property challenging the sale deed in favour of defendant Nos.6 to 8 in her suit who are not plaintiffs in second suit. The trial Court has dismissed the application observing as follows: -

*“9. After applying these conditions in the facts of the present case, I have reached to the conclusion that in the present case although subject matter of the both suit i.e., suit property is same in both suit but parties to the present case are different from the previous suit. The plaintiff of the present case was not party in the previously instituted suit titled as Smt.Dhapi Vs.Smt.Indu etc.*

*Although, learned counsel for the plaintiff made his no objection in allowing the present application, but for application of Section 10 CPC, it is necessary that all the ingredients of Section 10 CPC must be fulfilled. Moreover, in the present case, plaintiff has also challenged judgment and decree dated 8.6.1996 and in civil Suit No.113-C of 2010, the same was not challenged. Hence, the ingredients of Section 10 are not fulfilled in the present case.*

*10. In view of the above discussion, I am of the considered opinion that present application is devoid of merits and the same is hereby dismissed. The application stands disposed of accordingly. Now, to come up on 16.5.2015, for evidence of the defendants.”*

The trial Court has, after careful perusal of the pleadings in both the cases, dismissed the application. Besides this, I am of the considered opinion that when the first suit has reached at the stage of rebuttal evidence and the second suit is at the stage of production of defendants evidence, it will not be appropriate to stall the proceedings in the second suit.

This petition is dismissed without prejudice to the rights of the parties to avail the remedy under Section 24 CPC for transfer of the case to one Court to avoid any contrary findings.

**May 20, 2015.**  
**rka**

**(M.M.S. BEDI)**  
**JUDGE**