HC-KAR

NC: 2026:KHC:62324
WP No. 34110 of 2026

CNR: KAHC010744142026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION NO. 34110 OF 2026 (GM-CPC)

BETWEEN:

SMT. NAGARATHNA
W/O LATE G. SHANKARACHARI,
AGED ABOUT 61 YEARS,
R/AT NO.35 AND 36, 10TH CROSS,
DODDA GOWDANAPALYHA,
UTTRAHALLI MAIN ROAD,
BENGALURU - 560 061.

...PETITIONER

(BY SRI. M. PRAKASHA, ADVOCATE)

AND:

Digitally signed by VIJAYA P
Location: High Court of Karnataka

SMT. MANJULA
W/O K.R. GIRISH KUMAR
AGED ABOUT 42 YEARS,
R/AT NO.172, SUN SHINE BAG SHOP,
ANENUE ROAD CROSS, KILARY ROAD,
BENGALURU - 560 053.

...RESPONDENT

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) TO SET ASIDE THE ORDER ON I.A. NO DATED 13.10.2026 IN S.C.NO.628/2024 BY THE HON'BLE XI ADDL., SMALL CAUSE JUDGE AND ACJM AT BENGALURU AND ALLOWING THE APPLICATION UNDER

SECTION 10 READ WITH SECTION 151 OF CODE OF CIVIL PROCEDURE FILED BY THE PETITIONER, WHICH HAS BEEN MARKED AS ANNEXURE-A AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL ORDER

This petition assails the order dated 13.10.2026 passed by the XI Additional Small Causes Judge and ACJM, Bengaluru, in S.C. No.628/2024, rejecting the application seeking stay of the proceedings under Section 10 of the Code of Civil Procedure (for short 'the CPC').

2. Learned counsel appearing for the petitioner submits that the petitioner and the respondent have instituted separate suits seeking substantially identical reliefs in respect of the same properties. It is contended that O.S. No.1183/2023, instituted by the petitioner, involves wider reliefs and, therefore, the proceedings in S.C.

No.628/2024 ought to await the outcome of the previously instituted suit.

2.1 It is further submitted that permitting both suits to proceed simultaneously may result in conflicting findings and inconsistent decisions. Having regard to the express language of Section 10 of the CPC, where a previously instituted suit is pending between the same parties in respect of the same subject matter, the Trial Court ought to have stayed the proceedings in S.C. No.628/2024 pending disposal of O.S. No.1183/2023.

3. Heard learned counsel for the petitioner and perused the material on record.

4. The Trial Court, while considering the application, has recorded that O.S. No.1183/2023 is a suit for partition and other consequential reliefs, comprising prayers under clauses (a) to (j). The said suit seeks partition and separate possession of a 1/4th share, a mandatory injunction directing deposit of rental income, and a

declaration that four sale deeds are not binding on the plaintiff.

5. It is further recorded that the subject matter of the present proceedings relates to Item No.2 of the suit schedule property in O.S. No.1183/2023. The Trial Court has also noticed that the plaintiffs in the respective proceedings are asserting independent rights in respect of the properties and that the reliefs sought in the two proceedings are distinct. On the basis of the said considerations, the application seeking stay of the proceedings came to be rejected.

6. Section 10 of the CPC contemplates stay of the trial of a subsequently instituted suit where the matter directly and substantially in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or parties claiming under them, litigating under the same title, before a competent Court.

7. A mere overlap of the properties involved in two suits or the existence of certain common questions would not, by itself, attract the prohibition under Section 10 of the CPC. The essential requirement is that the matter directly and substantially in issue in the subsequent suit must also be directly and substantially in issue in the previously instituted suit.

8. Upon a prima facie examination of the findings recorded by the Trial Court and the scope of Section 10 of the CPC, this Court finds that the issues involved in the two suits do not appear to be identical. Though one of the items of the suit schedule property is common to both proceedings and some of the parties are also common, the reliefs sought and the nature of the rights asserted in the respective suits are distinct.

9. The fact that O.S. No.1183/2023 involves wider reliefs, including partition, separate possession, rendition of accounts or deposit of rental income, and a declaration

concerning the sale deeds, would not, by itself, be sufficient to attract Section 10 of the CPC. What is required to be examined is whether the matter directly and substantially in issue in the subsequent suit is also directly and substantially in issue in the previously instituted suit.

10. In the circumstances, this Court finds no error or infirmity in the conclusion reached by the Trial Court warranting interference.

11. Accordingly, the petition stands ***dismissed***.

SD/-
(K. V. ARAVIND)
JUDGE

VN
List No.: 2 Sl No.: 9