

# **STAY OF SUIT U/S 10 C.P.C (RES SUB JUDICE)**

# **\*INTRODUCTION\***

- Section 10 deals with stay of civil suits. It provides that 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 and that the court in which the previous suit is pending is competent to grant relief claimed.

# **\*OBJECT OF SECTION 10 \***

- The object of the rule contained in section 10 is to prevent courts of concurrent jurisdiction from simultaneously entertaining and adjudicating upon two parallel litigations in respect of the same cause of action, the same subject matter and the same relief.

# **\*CONDITIONS\***

- For the application of this section, the following conditions must be satisfied;
- (a)- There must be two suits, one previously instituted and the other subsequently instituted.
- (b)- The matter in issue in the subsequent suit must be directly and substantially in issue in the previous suit.
- (c)- Both the suits must be between the same parties or their representatives.
- (d)- The previously instituted suit must be pending in the same court in which the subsequent suit is brought or in any other court in India or in any court beyond the limits of India established or continued by the Central Government or before the Supreme Court.
- (e)- The court in which the previous suit is instituted must have jurisdiction to grant the relief claimed in the subsequent suit.
- (f)- Such parties must be litigating under the same title in both the suits.

# **\*SUIT PENDING IN FOREIGN COURT\***

- There is no bar on the power of an Indian court to try a subsequently instituted suit if the previously instituted suit is pending in foreign court.

# **\*CASE STUDIES\***

- **1- Manohar Lal v. Seth Hiralal AIR 1962 SC 527**
- The Supreme Court held that the language of s 10 was clear, definite and mandatory and prohibited the trial of a subsequent suit and it did not make any difference that the earlier suit was in violation of the agreement of parties or vexatious.
- **2- National Institute of MH & NS v. C. Parameshwara AIR 2005 SC 242**
- The fundamental test to attract s 10 is whether on final decision being reached in the previous suit, such decision would operate as res judicata in the subsequent suit.