**APPLICATION UNDER SECTION 10 CODE OF CIVIL PROCEDURE**

IN THE COURT OF THE....................

Suit No..................... of 19....................

C. D.................................................................... Plaintiff

*versus*

C. F................................................................. Defendant

The applicant most respectfully submits as under: —

1. That the applicant-plaintiff has filed a suit against the defendant in this Hon’ble Court on....................

2. That the defendant has also filed a suit in this Hon’ble Court on .................... impleading applicant as defendant in the said suit. A certified copy of the plaint as filed by the defendant is annexed hereto and marked as Annexure ‘A’.

3. That the matter in issue in the suit filed by defendant is also directly and substantially the same in the previously instituted suit by the plaintiff and the parties are the same.

4. That the suit filed by the plaintiff is pending in this Hon’ble Court.

5. That this Hon’ble court has got jurisdiction to grant relief claimed in both the suits.

**PRAYER**

It is therefore most respectfully prayed that the trial of the suit filed by the defendant be stayed till the suit of plaintiff is finally heard and disposed of.

Place.................... Plaintiff

Dated.................... Through

Advocate

**CASE LAW**

***Section 10***

The ejectment proceedings and probate proceedings are distinct and different. Issue involved in two proceedings cannot be identical. There is no question of applicability of Section 10 C. P. C.1

**STAY OF SUIT.**

When the causes of action are entirely different and there is no common issue in both the suits prayer for staying later suit cannot be allowed.2

**STAY OF SUIT FOR RECOVERY OF AMOUNT COVERED UNDER THE DISHONOURED CHEQUE**

***Sections 10 and 15***

It is well settled that a suit filed for recovery of amount covered under the dishonoured cheques should not be stayed under Section 10 of the Code of Civil Procedure solely on the ground that Criminal Proceedings under Section 138 of the Negotiable Instruments Act has been instituted.2A

1. Rameshwar Lal v. Lalit Kumar, 1996 (2) C.C.C. 415 (Raj. ).

2. British Indian Corporation Ltd. v. M/s. Rashttra Co. Freight Canrriers, 1996 (5) Supreme 285.

2A. Nemi Chand Gangwal v. Harish Kumar Jhanwar, 2001 (1) CCC 54 (MP).