

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8408 OF 2014

DR. GOPALRAO BABURAO SONDGE
VERSUS
RAOSAHEB HARIBHAU BHOSALE

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Advocate for Petitioner : Mr. K.F. Shingare h/f M.B.Gangwal
Advocate for Respondent : Mr. Ajinkya Kale h/f Mr. S.B.Talekar

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CORAM : V.K. JADHAV, J.
Dated: February 23, 2015

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PER COURT :-

1. Heard the learned counsel for the petitioner and respondent.

2. The petitioner has instituted a Special Civil Suit No.40/2006 for recovery of compensation on account of certain defamatory statement made by the respondent. The respondent has also instituted a Regular Civil Suit No.7/2011 claiming damages for malicious prosecution.

3. The petitioner has filed an application under Section 10 of the Code of Civil Procedure in R.C.S No.7/2011 to stay the proceedings of the suit till the decision of the Spl.C.S.No.40/2006 as well as the decision in Criminal Revision application No.56/2010. The learned counsel for the petitioner, at this juncture, submits that, so far as

Criminal Revision Application No.56/2010 is concerned, the same was dismissed by the Sessions Court and the petitioner has filed a Writ Petition and the same is also disposed of. The learned Judge of the trial Court, by its impugned order, rejected the application at Exh.10. Hence, this writ petition.

4. I have perused the copies of the complaints of Special Civil Suit No.40/2006 and RCS No.7/2011, respectively. On perusal of the complaint of Spl.C.S. No.40/2006, it appears that, the suit is instituted claiming compensation of Rs.1.00 crore on account of certain letters containing therein defamatory statement by the respondent herein. So far as the RCS No.7/2011 is concerned, the same is about the malicious prosecution since the complaint filed by the petitioner against the respondent came to be dismissed. It appears that, though the parties in both the suits are almost same, the issues, however, involved in both the suits are not substantially the same. Furthermore, the petitioner has also prayed for staying the present suit till the decision of Criminal Revision Application No.56/2010. Same is not permissible and beyond the scope of Section 10 of the Civil Procedure Code. The learned counsel for the petitioner has also brought to the notice of this Court that the Criminal

Revision Application came to be dismissed during the pendency of this writ petition and the writ petition preferred against that order also came to be disposed of.

5. In view of this, order passed by the learned Judge of the trial Court calls for no interference. There is no merit in the petition. The Writ Petition is dismissed. No costs.

(V.K. JADHAV, J.)

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aaa/-