

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6437 OF 2014

Shri. Suryakant Baburao Patil

.. Petitioner

Versus

Shri. Rajaram Dadu Fasake and others

.. Respondents

Shri. V. B. Rajure, for the Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 24th FEBRUARY, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 11.02.2014 passed by the Learned 4th Joint Civil Judge, Senior Division, Kolhapur, by which order the application filed by the Defendants No.2 and 3 for stay of the subsequent suit being Special Civil Suit No.167 of 2013 filed by the Defendants No.2 and 3 came to be allowed and the subsequent suit i.e. Special Civil Suit No.167 of 2013 came to be stayed. The said application was founded on the fact that the earlier suit i.e. Special Civil Suit No.300 of 2012 and the subsequent suit i.e. Special Civil Suit No.167 of 2013 are filed raising the same challenge i.e. challenge to the Sale Deed dated 01.09.2012 executed by the Plaintiff in Special Civil Suit No.167 of 2013 in favour of the Defendants No.2 and 3. The Plaintiff in Special Civil Suit No.300 of 2012 is the son of the Plaintiff in Special

Civil Suit No.167 of 2013. The Trial Court in the light of the fact that the suits have been filed seeking similar relief, deemed it appropriate to exercise powers under Section 10 of the CPC and stayed the suit filed by the father being Special Civil Suit No.167 of 2013. Having regard to the said factual backdrop, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

2. However, if any interim application is filed in Special Civil Suit No.167 of 2013, the Trial Court would consider the same, if the same results in protecting the suit property pending the suit. The Trial Court would undoubtedly consider the same on its own merits and in accordance with law and stay of the said subsequent suit would not be an impediment for the Trial Court to consider the said application.

[R.M. SAVANT, J]