

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1674 OF 2014**

Tarabai Trimbak Patil

..Petitioner

Vs.

Goma Gopal Shelke & Ors.

..Respondents

Ms Jui Nerurkar for the Petitioner

Mr. R. S. Datar for the Respondent No.1

**CORAM : R. M. SAVANT, J.
DATE : 29th JANUARY, 2015**

ORAL JUDGMENT

1 At the outset, the Learned Counsel for the Petitioner seeks deletion of the Respondent No.2.1 to 2.4 as they are not contesting parties in the context of the challenge raised in the above Petition. The said Respondent Nos.2.1 to 2.4 are accordingly deleted at the risk of the Petitioner.

2 Rule with the consent of the Learned Counsel for the parties made returnable forthwith and heard.

3 The Writ Jurisdiction of this Court under Article 227 of the Constitution of India is invoked against the order dated 10-12-2013 passed by the Learned Civil Judge Senior Division, Panvel, by which order, the application Exhibit 103 for clubbing of two Suits being Regular Civil Suit No.89 of 1995

filed by the Respondent No.1 herein and Special Civil Suit No.119 of 1996 filed by the Petitioner herein came to be rejected.

4 It is not necessary for this Court to go into unnecessary details. Suffice it to say that the first Suit being Regular Civil Suit No.89 of 1995 has been filed by the Respondent No.1 herein seeking declaration that clause of re-conveyance in the agreement dated 23-11-1983 is not binding upon the Plaintiff/Respondent No.1 herein. In so far as the Petitioner is concerned, she has filed Special Civil Suit No.119 of 1996 seeking specific performance of the said agreement dated 23-11-1983 and is also claiming injunction against the Respondent No.1 herein restraining him from disturbing her possession. Looking to the nature of the relief sought in both the Suits that the instant application Exhibit 103 came to be filed by the Petitioner/Defendant in Regular Civil Suit No.89 of 1995. The Trial Court on the ground that the scope of the two Suits being different they cannot be clubbed together, has accordingly rejected the said application.

5 In my view, having regard to the nature of the relief sought in both the Suits, it would be advantageous to club the two Suits together for being tried together so that a conflict of decisions is avoided, in the instant case the decision rendered in one Suit would obviously impact the claim of the Plaintiff in the other Suit. In that view of the matter, the impugned order dated 10-12-

2013 is required to be quashed and set aside and is accordingly quashed and set aside, resultantly the application Exhibit 103 would stand allowed. The two Suits i.e. Regular Civil Suit No.89 of 1995 and Special Civil Suit No.109 of 1996 would be clubbed together and tried together by the Court which would be assigned the matters by the Learned Principal District Judge, Raigad. The Petition is allowed to the aforesaid extent. Rule is accordingly made absolute in the aforesaid terms with parties to bear their respective costs of the Petition.

[R.M.SAVANT, J]