

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC CIVIL APPLICATION NO. 103 OF 2015**

Chandrakant P. Mirani

Applicant

Vs

M/s.Vishal Constructions and
Ors.

.. Respondents

Mr. J.S.Kini i/b Mr. Suresh Dubey, Advocate for Applicant.
Mr.A.M.Khandekar i/b Tamhane & Co., Advocate for Respondents.

CORAM : R.G.KETKAR,J.

DATE : 15/04/2015

PC:

1. Heard Mr.J.S.Kini, learned counsel for the applicant and Mr.A.M.Khandekar, learned counsel for the respondents.
2. By this Application under section 24 of the Code of Civil Procedure, 1908, the applicant has prayed for transfer of Suit No.109245 of 1999 pending in the City Civil Court, Bombay to this Court and for clubbing it with Suit No.334 of 2013 pending on Original Side of this Court.
3. In support of this application, Mr. Kini relied upon the order dated 20.3.2015 passed by this Court (Coram: S.C.Gupte, J.). He submitted that by the earlier order dated 28.3.2014 this Court has directed clubbing of both suits together. He also submitted that in Appeal (L) No.300 of 2015, the Division Bench of this Court recorded in paragraph 4 that the learned Single Judge has already passed order of tagging both the suits, one filed by the plaintiff and other filed by the respondent.

4. On the other hand, Mr. Khandekar submitted that in the order dated 20.3.2015, the learned Single Judge noted in paragraph 4 that cause of action in the two suits is different.

5. Having regard to the fact that the suits are pending between the same parties in relation to same subject matter, I am of the opinion that the applicant has made out a case for granting relief in terms of prayer clause (a), more so when by order dated 28.3.2014 passed by the learned Single Judge of this Court in Notice of Motion No.1263 of 2013, suit No.334 of 2013 is ordered to proceed along with the suit filed by the defendants therein, namely, Suit filed in the City Civil Court, Bombay. Hence, the Application is allowed in terms of prayer clause (a) with no order as to costs.

6. The concerned Judge of the City Civil Court, Mumbai will act on the authenticated copy of the order and transmit Record and Proceedings of Suit No.109245 of 1999 to this Court so as to be heard along with Suit No.334 of 2013 pending in this Court. Order accordingly.

(R.G.KETKAR, J.)