

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8742 OF 2014

Ashok M. Gorla .. Petitioner
vs.
Haji Esmail Haji Essa (since deceased)
1a. Mrs. Memuna wd/o. Haji Esmail Haji Essa
and ors. .. Respondents

Mr. A.G. Damle, Senior Advocate i/b Kantilal H. Kanojia for the
Petitioner.
Mr. V.P. Sawant i/b Mr. Prabhakar Jadhav for the Respondents.

CORAM : M. S. SONAK, J.
DATE : 28 JULY 2015.

P.C. :-

1] This petition challenges the order dated 21 June 2014, made by the Chief Judge of the Small Causes Court rejecting the petitioner's Transfer Application No. 219 of 2014.

2] The petitioner has instituted two suits, i.e., R.A.D. Suit Nos. 680 and 681 of 2004, which are presently proceeding in Court Room No.13. In the said two suits, the petitioner seeks a declaration in respect of tenancy to the suit premises as also other reliefs like restoration of possession, reconstruction etc..

3] The defendant in the aforesaid two suits, the respondent herein has instituted R.A.E. Suit No. 345/588 of 2005 seeking *inter*

alia, the eviction of the petitioner from out of the suit premises. The said R.A.E. Suit No. 345/588 of 2006 is being tried in Court Room No. 26.

4] The proceedings in R.A.E. Suit No. 345/588 of 2005 are fairly at an advance stage and whereas in the two suits instituted by the petitioner, even issues are yet to be framed.

5] In the aforesaid circumstances, clubbing the two sets of proceedings together will unduly delay the progress in R.A.E. Suit No. 345/588 of 2005. Further, though the two suits pertain to the same suit premises, it not as if all the issues in the two suits would be entirely common. In such circumstances, the Chief Judge is right in the view which he has taken on the aspect of clubbing of two sets of suits.

6] Nevertheless, it would be appropriate if the suits instituted by the petitioner are merely transferred to Court Room No. 26, where R.A.E. Suit No. 345/588 of 2005 is pending. Such transfer, will only afford an assistance for administrative purpose. Such transfer is not to be interpreted as any directions for clubbing of the two suits. The

two suits to proceed at their own pace, but separately in the same Court. Accordingly, the directions are issued to transfer the petitioner's suits, i.e., R.A.D. Suit Nos. 680 and 681 of 2004 to Court Room No. 26, where the respondent's R.A.E. Suit No. 345/588 of 2005 is presently being tried.

7] This petition is disposed of with the aforesaid directions.

8] All concerned to act upon an authenticated copy of this order.

(M. S. SONAK, J.)

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