

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11128 OF 2013

Shri Ashok P. Shelar	..	Petitioner.
V/s.		
Sudhir M. Achrekar		
& Others	..	Respondents.

Mr. Sachin Dhakephalkar, for the Petitioner.

CORAM: M.S.SONAK,J.

DATE : 13th APRIL, 2015.

PC:-

This Petition challenges the order dated 15th July, 2013 dismissing Petitioner's application for joint trial in Regular Civil Suit No.21 of 2008 along with Regular Civil Suit No.6 of 2006.

2 The learned Counsel for the Petitioner submits that the Civil Court after incorrectly recording that the nature of two suits and the reliefs sought therein are different, proceeds to direct that conduct of trial in the two suits should take place simultaneously, since the suit properties are adjacent to each other. If this be a position, learned Counsel for the Petitioner contends that there was no reason to deny a joint trial of the two suits.

3 The aforesaid contention of the learned Counsel for the Petitioner, cannot be accepted. The impugned order notes that the cause

of action in the two suits are different and further, properties involved in the two suits, though adjacent to each other, are different. The learned Counsel for the Petitioner, however, asserts that the property involved in the two suits are same. This by itself is not a reason to have a common or a joint trial as urged by the learned Counsel for the Petitioner. The Petitioners are sufficiently protected, because the impugned order itself states that the two cases will be taken up together, though, separate evidence will be recorded in each of the suits. There is no jurisdictional error in so far as making of the impugned order is concerned. Accordingly, this Petition is dismissed.

4 However, taking into consideration that the two suits relates to the years 2006 and 2008, the learned Civil Judge, Junior Division, Deogad is directed to decide the two suits as expeditiously as possible and in any case, within a period of one year from today.

5 The Petitioner to produce an produce authenticated copy of this order as well as the order made on 20th March, 2015 before the Trial Court.

6 In pursuance of order dated, 20th March, 2015, this Petition was restored as against Respondent No.3, subject to payment of costs of Rs.10,000 (Rupees Ten thousand only). Petitioner has already deposited such costs in this Court. Petitioner is permitted to withdraw the costs of Rs.10,000/- from this Court and re-deposit the same within a period of four weeks from today in the Court of Civil Judge, Junior Division, Deogad to the account of Regular Civil Suit No.21 of 2008. Upon such re-deposit, the learned Civil Judge, Junior Division, Deogad to permit each of the five Defendants to withdraw a sum of Rs.2,000/- (Rupees Two

thousand only) each. The learned Civil Judge, Junior Division, Deogad to ensure that such costs are indeed deposited by the Petitioner.

7 Petitioner to appear before the learned Civil Judge, Junior Division, Deogad on 21st April, 2015 at 11.00 a.m. and produce the authenticated copy of this order and order dated 20th March, 2015.

(M.S.SONAK,J.)