

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

WRIT PETITION NO. 9925 OF 2014

Motilal Sadari Vishwakarma

..Petitioner

Vs.

Chetan Chimanbhai Shah

..Respondent

....

Mr. Mohan Dhamal a/w Vishal Dhamal, Advocates for Petitioner.

Mr, Lalit Doshi, Advocate for Respondent.

....

CORAM : N.M. JAMDAR, J.

DATED : 24 MARCH 2015

P.C.:

By this petition, the petitioner challenges the order passed by the learned Small Cause Court, Mumbai dated 13 September 2014 rejecting the application taken out by the applicant to club the proceedings together.

2. The applicant is defendant in R.A.E. & R. Suit No. 699/1199/2007. He has taken out an application to club this suit alongwith Miscellaneous Application No. 702/2009 in R.A.E. & R. Suit No. 701/1131/2007. According to the petitioner, both the proceedings are common and can be conveniently disposed of by clubbing them together.

3. The learned Small Cause Court Judge found that the suit and the Miscellaneous Application are two different proceedings and they are not connected and if they clubbed together, it will be inconvenient. The application for clubbing the proceedings together is to be considered under the inherent power of the Court. It is a discretionary relief that the Court grant keeping in mind various parameters such as commonality of causes, convenience of the parties, etc. If the learned Judge has found that it is not convenient to club these proceedings together, it is not possible to interfere with the discretion in the writ jurisdiction. Furthermore the causes are different in both the proceedings.

4. The learned Counsel for the petitioner submitted that the petitioner may be permitted to withdraw the original documents from the concerned proceedings to be filed in another proceedings. In the impugned order there appears to be some observation in favour of the petitioner in that regard.

5. Considering the facts and circumstances, no interference is warranted in writ jurisdiction. The petition is accordingly rejected.

[N.M. JAMDAR, J.]