

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.4837 of 2015
(Waman s/o Vitthal Dange and another v. Shankar s/o Baliram Kainge)

Office Notes, Memoranda of Coram, appearances, Court's orders or directions and Registrar's order	Court's or Judge's orders
---	---------------------------

Shri M.V. Bute, Advocate for Petitioners.

Coram : R.K. Deshpande, J.
Date : 6th October, 2015

An application under Section 10 of the Code of Civil Procedure for stay of Regular Civil Suit No.19 of 2011 has been dismissed by the Trial Court by its order passed on 30-4-2015. The reasoning is contained in para 9 of the said order, which is reproduced below :

“9. After gone through the certified copies of plaint in RCS No.126/2004 it appears that the suit was filed for permanent injunction against the plaintiff. The present suit is filed by plaintiff Shankar against the defendant no.1 Waman and defendant no.2 Suresh Dange. In the previous suit, defendant no.1 Waman Dange was not party, therefore, it cannot be said that the previous suit was instituted between the same parties. Defendants have not filed on record the issues in previous suit. Therefore, it cannot be said that the issues in present suit is also directly and substantially in issue in previously instituted suit i.e. in RCS No.126/2004. The present suit is pending for cross examination of plaintiff. Hence at this stage I am of the view

that there is no need to stay the suit till decision in RCA No.39/2008, hence the application is liable to be rejected. ...”

In view of above, I do not find any reason to interfere in the order impugned in this petition.

The petition is dismissed.

Judge.

Lanjewar