

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

5 WRIT PETITION NO. 9691 OF 2014

ANNA KACHRU APSHINDE
VERSUS
ANANT DAGDUPANT KHILLARE

Shri. F.R. Tandale, Advocate, for petitioner.

Shri. P.V. Mandlik, Senior Counsel, instructed by Shri.
A.S. Gandhi, Advocate, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 29 AUGUST 2016

ORDER:

1) The petition is filed to challenge the orders made by the Civil Judge Junior Division Paithan in Regular Civil Suit No.199/20087 and Regular Civil Suit No.130/2012. The trial Court has ordered consolidation of the two suits. Heard both the sides.

2) Present petitioners are plaintiffs of Regular Civil Suit No.130/2012 which is filed for setting aside the registered sale deed No.1590 dated 12-6-1996. Plaintiff No.1 Kachru is father of plaintiff No.2 Anna. The previous

suit, RCS No.199/2008 is filed by Anant Khillare against Anna for relief of declaration that he is owner and the declaration is claimed on the basis of the same sale deed bearing No.1590 dated 12-6-1996. Further relief of injunction is also claimed. These two suits are consolidated. It appears that there is one more suit filed for relief of injunction but that suit is filed by brother of Anna in respect of the same property.

3) The first suit was filed for declaration against Anna that sale deed executed by his father is binding on him and so the plaintiff is owner. It is seen that after filing of the suit, Anna and his father together filed subsequent suit. It can be said that in the first suit itself the dispute could have been decided but Anna filed subsequent suit. The same property is involved in both the matters and on the basis of the rival contentions it can be said that same issues will be involved in both the suits. In view of these circumstances, there was no other alternative than to consolidate two suits and allow to lead common evidence in both the suits.

4) Learned counsel for the plaintiffs has placed reliance on the order made by this Court, other Hon'ble Judge, in W.P. No.10273/2015 dated 26-4-2016 between Deepali and Satish. This Court has carefully gone through the observations made in this order. This Court holds that those matters could not have been clubbed in view of very nature of dispute. But it appears that due to consent given by the two sides, the order was made to record evidence separately in the two matters.

5) This Court holds that the trial Court has not committed any error in making the order of consolidation. The circumstance that in the past Anant had opposed this step cannot be used against Anant. It appears that the District Court has already made order to see that all the suits are brought in the same Court. This Court has no hesitation to hold that there is no reason to interfere in the order made by the trial Court of consolidation of two suits. In the result, the petition is dismissed.

Sd/-
(T.V. NALAWADE, J.)

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