

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 1911 OF 2016

RAJENDRAKUMAR AMARCHAND JAIN ...Petitioner
Versus
MOHANRAJ RUPCHAND JAIN @ CHHAJED ...Respondent

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Mr. P.J. Thorat, Advocate for the Petitioner.
Mr. Santosh Adukia, Advocate for the Respondent.

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CORAM : R. G. KETKAR, J.

DATE : 15th MARCH, 2016

P.C.

1. Heard Mr. P.J. Thorat, learned Counsel for the petitioner and Mr. Santosh Adukia, learned Counsel for the respondent, at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 12.1.2016 passed by learned Judge, presiding over court room No.3, City Civil Court at Dindoshi (Borivali Division), Goregaon, Mumbai in Notice of Motion No.2582/2015 in Suit No.238/2013. By that order, learned trial Judge dismissed the Motion taken out by the petitioner for staying the proceedings of

Suit No.238/2013 till decision on Suit No.3050/2009.

3. The petitioner has instituted Suit No.3050/2009, initially on the Original Side of this Court, *inter alia* praying for declaration that the sale deed dated 20.6.2007 in respect of house No.120, Bazar Road, Marlecha Mansion, Bandra (West), Mumbai – 400 050 by the co-owners of said property of their undivided 8/9th share in favour of respondent herein is illegal, void and not binding on the petitioner; for declaration that the petitioner has preemptory rights in the suit property amongst other prayers. That suit is transferred to the City Civil Court in the year 2012. During pendency of that suit, the respondent herein instituted suit No.238/2013, initially on the Original Side of this Court, *inter alia* praying for partition and separate possession of 8/9th share of the respondent in the suit property. The suit is now transferred to the City Civil Court.

4. By the impugned order, learned trial Judge dismissed the Motion taken by the petitioner for staying Suit No.238/2013 till the decision on Suit No.3050/2009.

5. Having regard to the fact that both the suits are now

transferred to the City Civil Court, during the course of hearing, I suggested the learned Counsel appearing for the parties as to whether they have any objection if both the suits are clubbed together and tried together. The learned Counsel for the parties signified their no objection for adopting this course. A request was made by them for directing the trial Court to dispose of the suits expeditiously.

6. In view thereof, the Petition is disposed of in following terms :

- (i) Suit No.3050/2009 and Suit No.238/2013 are clubbed together and shall be placed before the same Court for disposing of together. Learned Principal Judge of City Civil Court, Mumbai shall pass appropriate orders in that regard.
- (ii) After clubbing of the suits, the parties are at liberty to apply for expeditious disposal of the suits. If such an application is made, the learned trial Judge will pass appropriate order thereon.
- (iii) Order accordingly.

(R. G. KETKAR, J.)