

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

MISCELLANEOUS CIVIL APPLICATION NO.85 OF 2016

Hussain Ismail Sheikh & Ors.	...	Applicants
Versus		
Shabir Ismail Khulli & ors.	...	Respondents

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Mr. M.S. Ansari i/b Mr. R.M. Momin for the Applicants.
Mr. Asif Patel i/b Mr. Hamid Ahmad for Respondent Nos. 1, 2, 4 to 6.

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CORAM : S.C.GUPTE, J.

DATE : 15 MARCH 2017

P.C. :

1. Heard learned counsel for the parties.
2. The misc.civil application seeks transfer of three proceedings pending before different courts and between different parties, i.e in the Small Causes Court at Mumbai, the Court of Civil Judge, Senior Division at Sindhudurg and the Court of Civil Judge, Junior Division at Kudal. The misc.civil application seeks transfer of these three proceedings to the Bombay City Civil Court, to be heard alongwith Suit No.610 of 2015 pending before that Court.

3. It is submitted that, the property, being the subject matter of R.A.D No.630 of 2015 pending before the Court of Small Cause at Mumbai, and the property, being the subject matter of Small Cause Suit No.610 of 2015 pending before the Bombay City Civil Court, are the same, namely, Room No.20 at Khalil Manzil. Though the property is the same, the scopes of the two suits are entirely different. Whereas the City Civil Court suit seeks mandatory and interlocutory injunctions from the point of view of occupation of the premises, the R.A.D suit before the Small Causes Court seeks declaration of tenancy of the Respondents herein alongwith the Applicants. It is essentially filed against the landlord of the suit premises. The Court of Small Causes being a Court of exclusive jurisdiction in respect of this dispute, the suit cannot be transferred to the Bombay City Civil Court for being heard alongwith the dispute between the occupants of the suit premises.

4. The two suits before the Kudal and Sindhudurg Courts are in respect of totally different properties and as between

different parties. The plaintiff to both these suits is not a party to the present misc.civil application.

5. In the premises, there is no merit in the misc.civil application and the same is accordingly, dismissed. The stay of proceedings granted by this Court on 22 April 2016 shall stand vacated forthwith.

(S.C.GUPTE,J)