

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

WRIT PETITION NO. 2318 OF 2018

NAMDEO KERU BANGAR AND ANOTHER
VERSUS
SARJERAO NATHU BANGAR AND OTHERS

...

Advocate for the Petitioners : Shri Bangar Nilkanth P.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 12th March, 2018

Per Court:

1 The Petitioners are aggrieved by the order dated 14.12.2017 by which, the Trial Court has allowed the application Exhibit-32 filed by the Defendants under Section 10 of the Code of Civil Procedure and has stayed RCS No.230/2016 pending the decision in RCS No.206/2016.

2 The learned Advocate for the Petitioners has strenuously criticized the impugned order. The contention is that Respondent Nos.1 to 3/ Plaintiffs preferred RCS No.206/2016 on 14.07.2016 seeking a declaration of ownership and title to the suit property. These Petitioners are the Defendants in the said suit. These Petitioners, therefore, preferred RCS No.230/2016 on 29.07.2016 in which, they claimed a declaration of ownership and title with regard to the same property in which, the Respondents herein have been arrayed as Defendants.

3 It is, therefore, apparent from the prayers put forth in both these suits that the respective Plaintiffs have prayed for a declaration of ownership and title over the same suit property. RCS No.206/2016 is filed earlier in point of time.

4 Considering the effect of Section 10 of the Code of Civil Procedure, if the issue involved in both the suits is substantially the same, the suit filed later in point of time has to be stayed.

5 I, therefore, find that as the respective Plaintiffs have sought the same declaration of ownership and title in their respective suits, if both suits are permitted to be tried simultaneously, there could be a possibility that diverse/ contrary orders could be passed.

6 In the light of the above, I do not find that the impugned order staying the subsequent suit could be termed as being perverse or erroneous. This Writ Petition being devoid of merit is, therefore, dismissed.