

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3781 OF 2017
(Jitendra s/o Sahebrao Jadhav Vs. Shaikh Burkhabee w/o Shaikh
Isaq, Patoda)

Mr.N.L.Jadhav, Advocate for the petitioner.
Mr.G.K.Naik Thigale, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 11/07/2018

PER COURT :

1. The petitioner / original defendant in RCS No.119/2016 and original plaintiff in RCS No.37/1992 is aggrieved by the impugned order dated 27/01/2017, by which the Trial Court has rejected application Exh.36 filed by the petitioner praying for staying RCS No.119/2016.

2. I have considered the submissions of the learned Advocates and have gone through the petition paper book with their assistance.

3. The suit property mentioned in RCS No.37/1992 is Survey No.34/1/AA admeasuring 0.10 R. The suit property in RCS No.119/2016 is Survey No.33/2 admeasuring 1 Acre and 33/3/A admeasuring 15 R. The suit properties in the respective suits, prima facie appear to be distinct and different. The dispute raised by the

petitioner is that some portions of the land in suit property of 1992 are overlapping the suit property in the 2016 suit. Such disputed questions cannot be considered in the writ jurisdiction of this Court.

4. Learned Advocate for the respective sides submit that RCS No.119/2016 can be clubbed with RCS No.37/1992 as the litigating parties are the same and the same Trial Court is considering both the suits by posting them on the same dates.

5. In the light of the above, this petition is disposed of. RCS No.119/2016 shall stand clubbed with RCS No.37/1992. The litigating sides in both these suits are precluded from seeking adjournments on unreasonable and trivial grounds and the Trial Court shall proceed to decide RCS No.37/1992 expeditiously alongwith the 2016 suit and in any case on or before 28/02/2019.

6. Needless to state, since Exh.5 application is pending in the 2016 suit and the petitioner herein is already enjoying the injunctory orders in the 1992 suit, the Trial Court would first decide application Exh.5 in the 2016 suit and after delivering its decision, shall then club both the suits as directed above.

(Ravindra V.Ghuge, J.)