

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 5725 OF 2018

Shakuntala Vasant Agrawal & Ors. ... Petitioners
Vs.
Prakash Bandu Jagdale ... Respondent

Mr. R.A. Naik i/b. Mr. Umesh R. Mankapure, Advocate for the petitioners.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 2nd July, 2018.

P.C.:

Upon mentioning, taken on production board.

2. In this Writ Petition, the order dated 13th December, 2017 below Exhibit 50 passed by the learned Civil Judge Junior Division, Miraj in Regular Civil Suit No. 76 of 2005 rejecting the Application filed by defendant nos. 1, 5 and 6 for stay of previous suit in view of Section 10 of Code of Civil Procedure is challenged.

3. The learned counsel for the petitioners submitted that the plaintiffs have earlier filed Regular Civil Suit No. 303 of 2002 where the issue whether the plaintiffs were partners or not of the impugned partnership firm is involved. The learned counsel submitted that the fate of second suit is decided on the decision of the first suit and

therefore, the first suit to proceed and second suit filed by the plaintiff is to be stayed.

4. Notice is not sent to the party. However, considering the short issue involved in this matter, after going through the order passed by the learned Civil Judge Junior Division, Miraj and considering the prays in plaint in Regular Civil Suit Nos. 76 of 2005 and 303 of 2002, no interference is required in the order passed by the learned Civil Judge Junior Division, Miraj. However, the learned Judge may consider to try the suits together in order to save the time and considering the convenience of the witnesses or one after the other.

5. Writ Petition is disposed of.

(MRIDULA BHATKAR, J.)