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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5070 OF 2018

Smt. Anjali Jagganath Shinde ..Petitioner.

V/s.

Smt. Kusum Gajare through power of
attorney holder Nandkumar Vitthal Gajare ..Respondent.

Mr.Ranjit Shinde i/b. Tanaji Mhatugade for the petitioner.

CORAM: NITIN W.SAMBRE, J.

DATE : JULY 11, 2018

P.C.:-

Heard the learned counsel for the petitioner.

2. The petitioner is the original defendant in a suit being Regular Civil Suit Nos.533/2013 and 531/2012 pending on the file of Civil Judge, J.D. Ulhasnagar.

3. In the first suit, the claim of the respondent-plaintiff is for declaration that the respondent-plaintiff has right to the extent of the suit property as a tenant and the said right be restored. In both the suits, the property is residential as well as commercial

premises which are located on different floors.

4. In the aforesaid backdrop, the petitioner-defendant filed an application under section 10 of the Code of Civil Procedure, 1908 on the ground that once if it is established that the plaintiff is a tenant, there would not be a decision on the second suit. The submission, in my opinion, is wholly misconceived.

5. In both these suits, the premises are commercial and residential having different dimensions and different locations. The plaintiff as a consequence has to establish her right independently *qua* her claim made in the suit claiming tenancy rights. In my opinion, no error can be noticed in the order impugned which warrants interference in the extra-ordinary jurisdiction of this Court. The petition fails and is dismissed.

6. Needless to say that this Court has not examined the merits of the suit.

(NITIN W.SAMBRE, J.)