

that as both the suits are different and seeking different reliefs, they cannot be clubbed together. The trial Court, accepted the contention and allowed the application, directing that instead of clubbing the matters together, both the suits be tried simultaneously.

4] However, the perusal of the order passed by the trial Court below the application Exh.33, clearly goes to show that the suits were not directed to be clubbed together, but the order was passed, only to record common evidence in both the suits. In such situation, the very ground on which trial Court has proceeded to pass the impugned order, is not correct and as a result consequential order of directing the suits to be proceeded simultaneously, has become erroneous. Order.

5] Admittedly the parties to both the suits are same, the subject matter is also the same. Even assuming that the reliefs claimed in both suits are different, the evidence will be one and the same. Hence, the earlier order passed by the trial Court of recording common evidence in both these suits need not have been disturbed by the trial Court.

6] Hence Writ Petition is allowed.

7] The impugned order passed by the trial Court is quashed and set aside.

[DR.SHALINI PHANSALKAR-JOSHI, J.]