

Division, Chandwad, District: Nashik, below Exh.35 in R.C.S. No.68 of 2012 and below Exh.54 in R.C.S.No.69 of 2012.

3] Both these applications were filed by respondents in above petitions for staying both the above suits under Section 10 of Civil Procedure Code, in view of the pendency of the earlier suit bearing R.C.S.No.57 of 2009 between the same parties. The trial Court has allowed the said applicatin. Hence the instant Writ Petitions.

4] Learned counsel for the petitioners submits that the earlier Suit bearing R.C.S.No.57 of 2009, was simpliciter for injunction filed by the petitioners and the said suit has been withdrawn by filing withdrawal pursis on 9th March, 2018. A certified copy of the order passed on the withdrawal pursis is also produced on record which shows that the trial Court has allowed the withdrawal of the said suit subject to costs and accordingly costs are deposited by the petitioners. By the said order, the trial Court has directed that the counter claim of the respondent-defendants will be proceeded further.

5] In view of withdrawal of the earlier suit bearing R.C.S. No.57 of 2009, the bar of Section 10 of Code of Civil Procedure, at this stage does not remain. As the impugned order of staying these suits was passed on the ground that earlier Suit R.C.S/No.57 of 2009 was pending and as the said suit has been withdrawn, the impugned common order passed by the trial Court needs to be quashed and set

aside.

6] Accordingly, both the Writ Petitions are allowed. The impugned common order passed by the trial Court is quashed and set aside.

[DR.SHALINI PHANSALKAR-JOSHI, J.]