

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.4937 of 2018

Syed Ahmed s/o Syed Hafiz
 vs.
 Kishor s/o Pralhadrao Gulhane

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Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

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Court's or Judge's Orders

Shri G.L. Agrawal, Advocate h/f Shri D.S. Khushalani, Advocate
 for the Petitioner.

CORAM : S.B. SHUKRE, J.
DATE : 14th AUGUST, 2018.

Heard the learned Counsel for the petitioner.

The stay of the suit previously filed, which is Special Civil Suit No.16/2012, was sought by the petitioner by invoking the provision of Section 10 of the Code of Civil Procedure. An application filed in this regard by the petitioner came to be rejected by the trial Court on 28/02/2018 and it is this order, which is under challenge in this petition.

One of the essential requirements of Section 10 of the Code of Civil Procedure is that parties in the present suit should also be the parties in the previous suit or at least be the parties claiming through the parties in the previous suit. Then, the issue involved in both the suits should be directly and substantially in issue. Both these conditions have been seen to be not fulfilled by the trial Court.

In the present suit, the petitioner disputed the title of deceased Pralhadrao and also contended that it is Puranchandra Pradhan, the predecessor in title of the plaintiff, who agreed to sell the suit property to him. This has been interpreted by the trial Court to be an effort on the part of the petitioner to claim right to purchase the suit premises from Puranchandra Pradhan and after his death from his legal heir. Such being the nature of both the suits, I do not think that any interference is warranted with the impugned order. The petition stands dismissed. No costs.

JUDGE

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