

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8218 OF 2018

**RATNAKUMAR MOHNIRAJ CHANDRATRE
VERSUS
SHRIDHAR MAHADU MHASKE AND OTHERS**

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Advocate for the Petitioner : Shri Abhishek Kulkarni
Advocate for Respondent Nos. 1 to 4 : Shri C. R. Thorat

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 13th MARCH, 2019.

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PER COURT :

1. The petitioner Ratnakumar is aggrieved by the order of the Trial Court dated 03/07/2017, by which, the Trial Court has stayed RCS No. 148/2017, until the decision in RCS No. 142/2017 and SCS No.22/2017.

2. I have heard the learned Advocates for both the sides.

3. I find that in RCS No. 142/2017, Namdeo has sought injunction against Ratnakumar at the Gangapur Court, with regard to land Gat No. 80. In RCS No. 148/2017, the petitioner Ratnakumar has sought an injunction against

Namdeo at the Gangapur Court, in relation to Gat No.80, as well as, Gat No.11. Namdeo has preferred Special Civil Suit No. 22/2017 seeking specific performance of contract against Ratnakumar, before the Vaijapur Court, in relation to Gat No.11. It is, thus, apparent that the two injunction suits filed by Namdeo and Ratnakumar are in relation to Gat No.80. Namdeo has sought a direction to Ratnakumar in SCS No.22/2017, so that he would get the possession of Gat No.11.

4. As such, in my view, the two injunction suits to the extent of Gat No.80, pending before the Gangapur Court, could be clubbed and decided. The second suit bearing RCS No. 148/2017 filed by Ratnakumar, only to the extent of Gat No.11, could be made subject to the result of SCS No.22/2017, which is also in relation to Gat No.11.

5. I perceive that the clubbing of the two injunction suits to the extent of Gat No.80 would avoid contradictory orders. A decision on Gat No.11 can be made subject to the result of SCS No.22/2017, which would lead to a verdict as regards Gat No.11.

6. I find this to be appropriate for the reason that an injunction being sought by a litigation would be on the basis of the possession held by the plaintiff and if, in SCS No.22/2017, the right of Namdeo or Ratnakumar is upheld to the extent of gat No.11, the said proceeding would offer an answer to the litigation with regard to gat No.80.

7. In view of the above, this petition is partly allowed. The impugned order dated 03/07/2017 is modified and Exhibit 21 stands disposed off with the following directions :-

(a) RCS Nos. 142/2017 and 148/2017 shall be clubbed and shall be decided together with common evidence, only to the extent of Gat No.80.

(b) SCS No. 22/2017 shall be pursued by Namdeo at the Vaijapur Court and a decision of the said Court with regard to Gat No.11 shall bind Namdeo and Ratnakumar to the extent of the claim put forth by Ratnakumar as regards Gat No.11.

(RAVINDRA V. GHUGE, J.)

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