

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8705 OF 2019

Shashikant @ Baburao Kallappa Gorwade ... Petitioner
Vs.
Suhas Shamrao Javalekar and Anr. ... Respondents
.....
Mr. Rahul B. Khot I/b. Mr. Nagesh Y. Chavan for the Petitioner.
.....

CORAM : M. S. KARNIK, J.

DATE : 4th OCTOBER, 2019.

P. C.:

1. Heard learned counsel for the petitioner.

2. This petition challenges an order passed below Exhibit 1 in Civil Miscellaneous Application No.148 of 2018 allowing the application under Section 24 of the Code of Civil Procedure for bringing two connected civil suits in one and same Court by exercising powers of transfer. By the impugned order the Principal District Judge, Sangli transferred Regular Civil Suit No.223 of 2017 pending in the Court of Joint Civil Judge, Junior Division, Miraj to the Court of 7th Joint Civil Judge, Senior Division, Sangli for hearing and disposal according to law, along

with Special Civil Suit No.40 of 2018 pending before the Civil Judge, Senior Division. Learned counsel for the petitioner assailing the impugned order would contend that though the parties are same, the suits are filed on the basis of the pecuniary jurisdiction of the concerned Courts. Moreover, the respondents instead of filing the counter claim in Regular Civil Suit No.223 of 2017 chose to file a Special Civil Suit No.40 of 2018 before the Civil Judge Senior Division. He would therefore submit that there is no reason to transfer the Regular Civil Suit No.223 of 2017 to be tried with Special Civil Suit No.40 of 2018, considering the conduct on the part of the respondents in filing the Special Civil Suit No.40 of 2018 before the Civil Judge Senior Division instead of filing the counter claim.

3. I have gone through the order passed by the Principal District Judge. The Principal District Judge has observed that the subject matter and the parties of the both suits are one and the same. It is only for the valuation on account of pecuniary jurisdiction that suits are filed before different Courts. The question involved in both suits is pertaining to the lease hold

rights of the subject property. With a view to avoid conflicting verdicts, the Principal District Judge was of the opinion that the application for transfer to one Court deserves to be allowed. I see no reason to interfere with this order passed by the Principal District Judge. The view cannot be said to be erroneous.

4. The petition is rejected with no order as to costs.

(M. S. KARNIK, J.)