

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8937 OF 2017

Jayant B. Soni and Ors.

...Petitioners

vs.

Balasaheb Amale @ Babasaheb Amle

@ Kunal Kondiba Amale

...Respondent

Mr. Anuj Narula a/w. Ms. Meena Bhatta, Ms. Ashwini Mahadik
I/b. Jhangiani Narula and Associates, for the Petitioners
None for the Respondent.

CORAM : M. S. SONAK, J.

DATE : MARCH 27, 2019

JUDGMENT:

. Heard Mr. Anuj Narula, learned counsel for the Petitioners.

2. Mr. Narula states that service has been effected upon the Respondent and necessary affidavit of service has been filed. He states that in fact on the last date, advocate also appears for the Respondent. However, today neither the Respondent nor his advocate are present.

3. Rule. Rule is made returnable forthwith in view of the order made on 27th July, 2018 in which it was made clear that endeavour shall be made to dispose of this Petition at the stage of admission.

4. The challenge in this Petition is to the order dated 22nd June, 2016 by which the learned trial Judge has rejected the Petitioners' application for consolidation of summery suit Nos. 327, 328, 329, 330 and 331 of 2014. The impugned order dated 22nd June, 2016 as endorsed in Roznama read thus :

“Sum 327/14 Adv.Raut for Pltff. Present. None for defts. Exh-06 Application for clubbing the matters Nos. 328/14, 329/14, 330/14 and 331/14 filed by Adv. For Pltff. Heard Ld. Adv. For Plaintiff. Total five suits are filed by M/s. Jhangiani Narula and Asstt. against Balasaheb @ Kunal Kondiba Amale. Perused Complaint and documents filed in each suit. Plaintiff are separate in each matter. Defendant is common. But there are separate payment voucher, cheque, intimation letter, demand notice etc. in each suit. Therefore, though transaction is of similar nature and debt. is common, Plaintiff is directed to lead separate evidence in each matter. However, common documents if any can be taken in to consideration. Adjourned for R/E on 25/07/2016.

5. According to me, merely because there may be separate payment voucher, cheque, intimation letter or demand notices in each of the suit, the same is not a good ground to reject the request for consolidation of the suits. Admittedly, the Plaintiff and Defendant are the same in the suit. However, in this case, it is not as if, the suits have been instituted by one and the same Plaintiff against the common Defendants, the suit have been instituted by different Plaintiffs even they may be the members of the same family. Besides, order of consolidation is discretionary and in the

facts of the present case, it cannot be said that the discretion has unreasonably exercised.

6. Accordingly, this Petition is dismissed.

7. Rule is discharged.

8. There shall be no order as to costs.

(M. S. SONAK, J.)