

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

940 WRIT PETITION NO.10801 OF 2021

**HALEEMA BEGUM MOIZODDIN AND OTHERS
VERSUS
SHIVSINGH SHANKARSINGH GAUTAM AND OTHERS**

...
Advocate for Petitioners : Smt.Ansari A.N.

...
**CORAM: MANGESH S PATIL,J.
DATE : 05.10.2021**

P.C.:

The petitioners are challenging the order passed by the Principal District Judge under Section 24 of the Code of Civil Procedure directing the Suit instituted by them and pending on the file of the learned Civil Judge, Junior Division, Jafrabad to be transferred to the Court of Civil Judge, Senior Division, Jalna.

2] I have heard the learned advocate Smt.Ansari for the petitioners. She submits that the petitioners' Suit was first in point of time. It is a Suit for perpetual injunction simplicitor to protect their possession in the Suit property. Though the parties and the Suit property is the same even in the Special Civil Suit filed by the respondents and pending at Jalna, the Suit is not maintainable inasmuch as they are seeking to challenge the proceeding which has become final under the The Maharashtra Prevention of Fragmentation and

Consolidation of Holdings Act, 1947. Without there being any reason and justifiable ground, the learned Principal District Judge has transferred petitioners' Suit from Jafrabad to Jalna. It would protract early decision of their Suit.

3] I have carefully gone through the impugned order and the papers. There is no dispute about the fact that in both the Suits the self same property i.e. Gat Nos.89 and 91 are involved. Except the State Government which is a party defendant in the Special Civil Suit pending at Jalna, the rest of the parties are common in both the Suits.

4] The learned Principal District Judge has also clearly recorded an observation that except the fact that the parties and the properties are same, there is no other substantial ground for transfer of the proceeding. However, though it has not been said in so many words, perhaps to avoid any inconsistent findings of facts that, the learned Principal District Judge seems to have directed both the matters to be transferred to the same Court. I do not find anything perverse, arbitrary or capricious in directing the petitioner's Suit to be transferred to Jalna in the same Court where the respondents' Special Civil Suit is pending.

5] If such is the state of affairs, in my considered view, there is no merit in the Writ Petition.

6] The Writ Petition is dismissed in limine.

[MANGESH S. PATIL,J.]

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