

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2805 OF 2022

NARAYAN ANNA CHANDRAYYA SURGONIWAR
VERSUS

RANJEET SINGH RAJKARAN SINGH

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Advocate for Petitioners : Mr. Milind Joshi

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 26th FEBRUARY, 2022

ORDER :

1. The application filed by the Petitioner to club Special Civil Suit No. 180/2012 with Special Civil Suit No. 261/2012 is rejected by the Trial Court. That order is impugned in the present petition.

2. According to the Petitioner there are three proceedings i.e. Special Civil Suit No. 180/2012, Special Civil Suit No. 261/2012 and Contempt Petition No. 11/2015, pending before the same Court and hearing of all three proceedings needs to be taken simultaneously for the sake of convenience of the parties and for saving valuable time of the Court.

3. The Special Civil Suit No. 180/2012 is filed by the wife of the Petitioner/plaintiff, which is filed for specific performance of contract. Special Civil Suit No. 261/2012 is filed by the Respondent/Plaintiff against the Petitioner/defendant only for recovery of amount on the ground that the defendant has obtained hand loan from the plaintiff. Special Civil Suit No. 180/2012 is expedited by the District Court by giving direction to dispose it of within a period of six months. In the said suit because of objection raised by the defendant in respect of agreement to sale, original documents are sent for impounding. If issues framed in both the suits are taken into consideration, they are different from each other. Special Civil Suit No. 261/2012 is filed for recovery of amount, whereas Special Civil Suit No. 180/2012 is filed for specific performance of contract. The parties are different in both the suits. In that view of the matter and taking into consideration the fact that though the suits are filed in the year 2012, no statement is made by the Petitioner/Defendant in the written statement that both the suits be clubbed together. In that view of the matter, the Trial Court has recorded a finding that the suit cannot be stayed or clubbed together by allowing the application. The Trial Court

has rightly rejected the application filed by the Petitioner.

4. The learned advocate for the Petitioner in support of the petition and his submissions placed reliance on the judgment in the case of M/s. P.T. Anklesaria & Co. Vs. Union of India (1974) 76 BOMLR 19), wherein the co-ordinate bench of this Court has held that “in deciding whether two or more suits should be consolidated or not, the whole question is whether or not, in the long run it will be expeditious and advantageous to all concerned to have the two suit tried together as analogous cases. Where it appears that there is sufficient unity, or similarity in the matter in issue in the suits or that the determination of the suits rests mainly on a common question, it is convenient to have them tried as analogous cases”. In the facts of that case, this Court was of the opinion that there is sufficient unity and similarity in the matter in issue in the two suits.

5. In the case in hand as it is already observed that there is no sufficient unity or similarity in the matter in issues in both the suits and determination of suits does not rests mainly on the common question.

In that view of the matter, no fault can be found with the impugned order passed by the learned Trial Court. The writ petition being devoid of merits, is dismissed. No costs.

[NITIN B. SURYAWANSHI]
JUDGE