

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

**WRIT PETITION NO.2079 OF 2021**

**FULABAI BHAUSAHEB BANSUDE  
VERSUS  
SOPANRAO DNYANOBA BANSUDE AND OTHERS**

...  
Advocate for Petitioner : Mr. D. P. Deshpande  
Advocate for Respondent Nos. 1 to 4 : Mr. C. P. Patil

...

**CORAM : SMT. BHARATI DANGRE, J.**

**DATE : 24<sup>th</sup> JANUARY, 2022**

**PER COURT :**

1. Heard the learned advocate for petitioner and the learned advocate for respondents.

The petitioner is aggrieved by the grant of stay to the proceeding in Special Civil Suit No.17/2017, by the learned Civil Judge, Senior Division, Latur, till the pendency of other three civil suits being R.C.S. No.328/2015 filed for perpetual injunction by the defendant, Special Civil Suit No.19/2016 filed by the petitioner for declaration that he is the owner of the property and R.C.S. No.364/2016 filed by the respondents for restraining the defendants from continuing their business activity in respect of the suit property. The defendant Nos. 1, 2 and 4 moved an application under Section 10 of the Code of Civil Procedure for stay of the suit, on the ground that the subject matter in

the suit is directly and substantially in issue in the two regular civil suits filed by him i.e. R.C.S. No.364/2016 and R.C.S. No.328/2015. The learned Judge, by adhering to the principles underlining Section 10 of Code of Civil Procedure, allowed the application and stayed the proceeding in the Special Civil Suit No.17/2017.

2. On perusal of the order impugned, I am not inclined to show any indulgence, since the principle underlining Section 10 is the subject matter of the present suit being directly and substantially in issue in other suits and only on the ground that limited relief can be granted in the suit filed under Section 6 of the Specific Relief Act, where only possession is the issue to be looked into, I am not ready to buy the argument of the learned counsel for petitioner that this suit must be expeditiously disposed off with priority.

3. The learned counsel for petitioner has invited my attention to an application filed before the learned Principal District Judge under Section 24 read with Section 151 of the Code of Civil Procedure, wherein the following prayer is made:-

“In view above stated facts and circumstances the following Civil Suits bearing numbers Spcl.C.S. No.19/2016 & R.C.S. No.446/2017 pending before Hon’ble 5<sup>th</sup> C.J.S.D. Latur, Spcl.C.S. No.17/2017 & R.C.S. No.549/2015 pending before Principal Senior Division, Latur, R.C.S. No.328/2015 pending before

Hon'ble 5<sup>th</sup> C.J.J.D. Latur and R.C.S. No.364/2016 pending before Hon'ble 3<sup>rd</sup> C.J.S.D. Latur be consolidated and transferred to any of the above Court where any of the said suits are pending in the interest of justice.”

The said application being filed on 20-01-2020, is informed to be still pending. In the wake of the interjection of the proceedings in Spcl. Civil Suit No.17/2017 by the pendency of the earlier suits, since Misc. Civil Application No.15/2020 is pending before the learned Principal District Judge Latur, the learned Judge, is directed to hear the said application and take a decision upon the same within a period of four weeks from today, after affording opportunity of hearing to the respective plaintiffs and defendants in the said suits.

4. Writ petition is dismissed.

**(SMT. BHARATI DANGRE, J.)**