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

**CIVIL APPELLATE JURISDICTION**

**CIVIL WRIT PETITION NO. 1998 OF 2019**

M/S. R. GOVAN AND CO. LTD.

....PETITIONER

V/s.

SHRI. KRISHNA MADHAV TRUST AND ORS

.....RESPONDENTS

Mr. Rohan Savant, Mr. Jitendra Jain and Mr. Laxman Jain i/b Yogesh Adhia Advocate for the Petitioner

Mr. Babu M. B. i/b Mr. G. S. Bhat Advocate for Respondent nos. 1 to 4

Mr. Lalit V. Jain Advocate for Respondent no. 6

Mr. P. A. Sarwankar i/b Sarwankar & Co. for Respondent no. 7

**CORAM : NITIN W. SAMBRE, J.**

**DATE: JUNE 24, 2022.**

**P.C.:**

1) Application Exh. 58 is taken out by the Petitioner who is Plaintiff in R.A.D. & E Suit No. 624/1008 of 2012 for declaration of tenancy, eviction of Respondent no. 6, cancellation of agreement of tenancy. In relation to the very same subject matter, another Suit being R.A.E. Suit No. 405/689 of 2012 is taken out by Respondent-Trustees for recovery of possession from the present Petitioner and

Respondent no. 6.

2) By Application Exh. 58 in RAD & E Suit No. 624/1008/2012, Petitioner has prayed for clubbing of both Suits and to be tried together having regard to subject matter and the issues which are to be decided. Said prayer is rejected vide order impugned dated 05/10/2018 passed by Judge, Small Causes Court, Mumbai.

3) By inviting my attention to the issues framed in both these Suits, contention of counsel for the Petitioner are, to avoid wasting of precious judicial time and recording of repeated evidence, it is necessary that both the Suits are required to be clubbed and filed together.

4) Counsel for Respondent resisted the said claim and submits that until couple of months before, both Suits were tried before the same court and on the same day, however, on administrative grounds, Suits are now independently posted on different dates. According to him, considering the nature of claim in both these Suits, Pleadings of the parties so as to avoid recording of contradictory evidence on the same issue, the Court was justified in not clubbing the same.

- 5) Appreciates submissions.
- 6) It appears that Court below was not inclined to club and try both these Suits together as the issues which fell for consideration therein are altogether different. Be that as it may, parties hereto have no objection for trying both Suits by the same Court on the same day.
- 7) In view of above, Petition stands partly allowed. Order impugned passed below Exh. 58 dated 05/10/2018 stands modified as under.
- 8) Court of Small Causes is directed to try both Suits referred above i.e. RAD & E Suit No. 624/1008/2012 and R.A.E. Suit No. 405/689 of 2012 on the same day.
- 9) Petition as such stands disposed of.

**[NITIN W. SAMBRE, J.]**