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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION 4835 OF 2022

Kunda Ambadas Hanumante & Anr. ... Petitioners.

Versus

The Collector, Office of the Collector,
Pune & Ors. ... Respondents.

Mr. Arjun Kadam, Advocate for the Petitioners.
Mr. A. P. Vanarse, AGP for the State.
Mr. Surel S. Shah, Advocate a/w. Siddharth Karpe for the
Respondents 3 & 4.

CORAM : ROHIT B. DEO, J.

DATE : JUNE 21, 2022

P.C. :-

1. The Petitioners are Defendants 3 and 4 in Regular Civil Suit 21 of 2022 which is instituted by Respondents 3 and 4 herein, seeking declaration that the Plaintiffs are entitled to compensation qua the subject matter of the suit.

2. The Defendants 3 and 4 preferred an application, purportedly under section 11 of the Civil Procedure Code, contending that they have instituted Regular Civil Suit 100 of 2012, which is pending in the Court of Civil Judge, Junior Division, Indapur, relating to the very same land, which is

subject matter of the present suit. The Defendants 3 and 4 submitted that the Plaintiffs in Regular Civil Suit No. 21 of 2022 are the Defendants in the previously instituted suit and the issue which squarely and directly falls in adjudication, is the entitlement of the Plaintiffs in the present suit, to the land and axiomatically to the compensation.

3. The Application is resisted by the Plaintiffs on the premise that the relief claimed in both the suits is different and in the present suit, the State Government authorities are the parties.

4. The learned trial Judge was pleased to reject the Application invoking Section 10 of CPC, by order impugned dated 05.03.2022. The rejection is on the premise that the relief claimed and the parties are different. The learned trial Judge noted that the relief claimed in the previously instituted suit is the cancellation of the registered document dated 19.01.1996 and the relief claimed in the present suit is injunctive relief qua the compensation for the land acquired.

5. In my considered view it would be in the interest of both

the parties if the two suits are transferred to one court and are consolidated and decided simultaneously rather than considering the submission on the touchstone of section 10 from strictly legalistic perspective. It is well recognized that in appropriate cases, the court would be justified in directing consolidation of the suits rather than granting stay to one of them.

6. While I am not interfering with the order impugned, the parties - Respondents 3 and 4 shall file an appropriate application before the District Judge, Pune, seeking transfer of the suit pending at Indapur to the Court which is in *seisin* of Regular Civil Suit No. 21 of 2022. The learned District Judge shall pass order on the said Application within 30 days from its filing, after hearing the parties. The transferee Court is expected to expeditiously hear both the suits which, needless to observe, shall be decided simultaneously.

7. Subject to the observations and directions *supra*, the Petition is disposed of.

(ROHIT B. DEO, J.)