

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

WRIT PETITION NO.2055 OF 2018

**KACHRU KESHAV NANGAL AND ANOTHER
VERSUS
INDUMATI W/O UTTAM SHINDE (DIED) LRS. SOMNATH UTTAM
SHINDE AND OTHERS**

Advocate for Petitioners : Mr. Rahul A. Tambe
Advocate for Respondent No.8 : Mr. R.B. Dhakane

**CORAM : NITIN B. SURYAWANSHI, J.
DATE : 24th MARCH, 2023**

PER COURT :

1. Challenge in this petition is to the order dated 04/12/2017, passed by learned Civil Judge, Senior Division, Shrirampur, below Exhibit-76 in Regular Civil Suit No.192/2012.
2. Respondent No.8 has filed the suit for declaration of ownership of suit property on the basis of sale deed dated 27/06/2011 and for injunction.
3. After getting knowledge of the said suit, petitioners filed R.C.S. No.388/2012 for declaration that sale deed dated 27/06/2011 is null and void and not binding upon the petitioners and for declaration of ownership and injunction.
4. By filing application Exhibit-76 in R.C.S. No.192/2012, under Order 1 Rule 10 of the Code of Civil Procedure, petitioners prayed for adding them as defendant Nos.8 and 9. Rejection of the said application is challenged by the petitioners in present petition.

5. Heard learned advocate for petitioners and learned advocate for respondent No.8. Perused the memo of writ petition, annexures thereto and the impugned order.

6. Admittedly, the suit property in both the suits is same and both the parties are claiming relief in respect of same suit property.

7. Trial Court has rejected application filed by petitioners holding that petitioners have not disclosed that they have filed R.C.S. No.388/2012 and the said suit is pending in the same trial Court for adjudication. Trial Court, therefore, held that petitioners have not come with clean hands before the trial Court and the plaintiffs have not claimed any relief against petitioners.

8. Considering the fact that subject matter of both the suits is same and since both the suits are pending before same trial Court, it would be in the interest of justice to direct trial Court to club both the suits together and after recording separate evidence, to decide them simultaneous.

9. In that view of the matter, trial Court is directed to club both the suits together and by recording evidence separately, trial Court shall decide the suits simultaneously.

10. With these directions, writ petition is disposed of.

(NITIN B. SURYAWANSHI, J.)