

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

MISCELLANEOUS CIVIL APPLICATION NO. 31 OF 2021

Jayant Jaiprakash Karade & Ors.	.. Appli-
cants	
v/s.	
Subhash Sadashiv Karade & Ors.	.. Respon-
dents	

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Mr. Vijay Killedar a/w Sumedh Modak for the applicant.

Mr. Kuldeep U. Nikam for the respondent nos.2 to 4, 9 & 10.

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CORAM : KAMAL KHATA, J.

DATED : 6TH JULY 2023.

P.C. :

1. The present application under Section 24 of the Code of Civil Procedure, 1908 seeks transfer of proceedings bearing Special Civil Suit No.1/2014 filed before the Civil Judge, Senior Division, Pandharpur to Civil Judge, Senior Division, Sangli.

2. It is stated that the Special Civil Suit no.216/2019 filed before the Civil Judge, Senior Division, Sangli against respondent nos.1 to 10 were in respect of various properties

situated at various places and which formed a part of the undivided Hindu joint family properties. By the Suit, the applicant sought partition of this joint family properties.

3. By virtue of the transaction dated 18th March 2010, defendant no.1 had transferred half share in the property situated at Tasgaon bearing C.T.S. No.1539 in favour of respondent no.3, and therefore, constrained to file a Special Civil Suit at Sangli. It is submitted that during the pendency of the Special Civil Suit, respondent no.2 without seeking leave of the Court executed a Sale Deed pertaining to the property situated at Village Kasegaon, Pandharpur, District Solapur, in favour of respondent no.11 bearing Block No.157/2A/1B/1A/2 by the registered Sale Deed dated 6th March 2012. The applicant had therefore, filed a Suit bearing Special Civil Suit no.1/2014 before the Civil Judge, Senior Division, Pandharpur, seeking a declaration that the Sale Deed executed by respondent no.2 is in favour of respondent no.11 is illegal and not binding on the applicant.

4. The learned counsel for the applicant submitted that the issues in both the Suits are common. The evidence that would be required to be lead would be common. The parties

are also common save and except the purchaser. It is submitted that if the two Suits are not clubbed, it could result inconsistent findings, and therefore, inconsistent decisions. He, therefore, requested that the application be allowed.

5. The learned counsel relied upon the decision of the Supreme Court in the case of *State Bank of India v/s. Ranjan Chemicals Ltd. and another*¹ and referred to paragraph 11 in particular to submit that a joint trial is ordered when a Court finds that the ordering of such a trial, would avoid separate overlapping evidence being taken in the two causes put in suit and it will be more convenient to try them together in the interests of the parties and in the interests of an effective trial of the causes.

6. In view of the settled law, I am inclined to allow this application and pass the following order;

(i) Application is allowed in terms of prayer clause (b).

(ii) The proceedings and application made in Special Civil Suit no.1/2014 pending before the Civil Judge, Senior

¹ (2007) 1 SCC 97

Division, Pandharpur, be stayed pending transfer; and be transferred to the Civil Judge, Senior Division, Sangli.

(iii) The transfer may be effected within a period of four weeks and upon receipt of the papers and proceedings the Civil Judge, Senior Division, Sangli, shall give notice to the parties, preferably within three weeks, to proceed with their respective matters.

(iv) All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)