



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2743 OF 2024

(CHINTAMAN PANDURANG BORDE & OTH..VS.. SNIL SUDHAKAR KHAROTE & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N.A.Parwani, Advocate for Petitioners.

CORAM : ANIL S. KILOR, J.
DATED : APRIL 25, 2024.

1. Heard.
2. The order dated 03/04/2024 passed below Exh.139 by the 4th Joint Civil Judge Senior Division, Nagpur, rejecting the application for consolidation of Special Civil Suit No.76 of 2023 with Special Civil Suit No. 88 of 2015, is under challenge in this writ petition.
3. It is the case of the petitioner that the counter claim as regards adverse possession came to be rejected therefore, a suit was filed viz. Special Civil Suit No. 76 of 2023. It is further submitted that the plaintiff in Special Civil Suit No. 88 of 2015 is claiming the title over the suit property, whereas the petitioner is claiming title through adverse possession. It is therefore, submitted that it would be in the interest of justice to consolidate both the suits.
4. The record shows that the request of the petitioner for consolidation of both the suits was denied by the trial Court on the ground that the plea as regards

adverse possession has already been taken by the petitioner in the written statement and therefore, the petitioner has every opportunity to prove and establish his case as regards the adverse possession in the first suit i.e. Special Civil Suit No. 88 of 2015.

5. In the above backdrop, after going through the issues framed by the learned trial Court in Special Civil Suit No.88 of 2015, I am of the opinion that while leading evidence in defence on issue Nos. 2, 3 and 4 the defendant can establish and prove their title through adverse possession, and if the petitioners succeeded in doing so there is no possibility of any conflicting decrees.

6. In the circumstances, I do not find any error committed by the trial Court in rejecting the application for consolidation of both the suits.

7. Accordingly, the Writ Petition is **dismissed**. No order as to costs.

JUDGE