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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7691 OF 2023**

M/s. Mahabharat Builders and Developers ... Petitioner
through Shri Jayesh Dinesh Kadam

vs.

Shri Bahubali Vrishabh Kalshetty and Ors ... Respondents

Mr. Chetan Patil for Petitioner.

Mr. Bhushan Jadhav for Respondent No.1.

Mr. Satyajee Shirke for Respondent Nos. 2 to 4.

CORAM : GAURI GODSE, J.

DATED : 26th JUNE 2025

ORDER:

1. This petition is filed by the plaintiff in Special Civil Suit No. 60 of 2018 and defendant no. 4 in Special Civil Suit No. 213 of 2018, to challenge the rejection of the application under Section 10 of the Civil Procedure Code, 1908('CPC') to stay the Special Civil Suit No. 213 of 2018.

2. The petitioner in his suit claims specific performance from defendant nos. 1 to 3 of Special Civil Suit No. 213 of 2018 and other parties, of the agreement dated 14th May 2004 and the respondent no. 1 claims specific performance from defendant nos. 1 to 3 of an agreement dated 21st May 2013. The petitioner

filed suit for specific performance on 22nd January 2018 and respondent no.1 filed a suit for specific performance on 4th June 2018. Since, the petitioner's suit was prior in time, the application was filed for stay of the subsequent suit. The learned trial court dismissed the application by holding that the property and the parties in both the suits are same and both the suits are pending before the same court. Hence, learned Judge dismissed the application for stay and directed that both the cases be listed on the same date before the court.

3. I have perused the papers of the petition. The subject matter of both the suits are the same. Parties in both the suits are also same. In the event, the petitioner succeeds in the suit for specific performance, the same would affect the subsequently filed suit. However, considering that the subject matter and the evidence that would be led is similar, no purpose would be served by keeping the subsequent suit pending, in as much as if the first suit is dismissed, respondent no. 1 would be entitled to seek his claim for specific performance. I do not find any fault in the reasons recorded in the impugned order for refusing to stay the suit. Both the suits are pending before the same court and the learned Judge has directed that the suits be listed on the same date. Both the suits are filed within a span of few months and both the plaintiffs are claiming specific performance through

respondent nos. 2 to 4. Hence, considering that the evidence in both the suits would be similar, it would be in the interest of both the parties in the suits that they are clubbed and tried together. The suits are pending before the same court. Hence, learned Judge has rightly directed that both the suits be placed before the court on the same date.

4. In view of the aforesaid facts and circumstances, I do not find any fault in the impugned order. Hence, the writ petition is disposed of by directing that both the suits be clubbed and tried together.

5. Writ Petition is disposed of in the aforesaid terms.

(GAURI GODSE, J.)