

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13724 OF 2018

VISHAL
SUBHASH
PAREKAR

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Date: 2025.02.14
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Dr. Abdul Mannan Abdul Rahiman Shaikh ...Petitioner

vs.

Gopal Govind Vibhute and Others ...Respondents

Ms. Tooba Momin i/b. Ms. Saima Ansari, for the Petitioner.

Ms. Prajakt Arjunwadkar, for Respondents.

CORAM : N. J. JAMADAR, J.

DATE : FEBRUARY 11, 2025

P.C:

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to an order dated 30th June, 2018 on an application preferred for the dismissal of the suit on the premise that the suit was barred under Order II Rule 2 of the Code of Civil Procedure, 1908.
3. The learned counsel for the petitioner submitted that the petitioner was impleaded in R.C.S. No. 254 of 2005 as defendant No. 8. The plaintiff, in the instant suit, could have sought the reliefs against the petitioner, in the said suit. Instead, a fresh suit, S.C.S. No. 63 of 2014, was filed.
4. I have perused the averments in the plaint and the impugned order. Evidently, the cause of action for the previous suit and the instant suit are materially distinct. The provisions contained under

Order II Rule 2 of the Code, thus, have no application. The learned Civil Judge has thus committed no error in rejecting the application.

5. The petition stands dismissed.

(N. J. JAMADAR, J.)