

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 18438 OF 2024

K. P. Packaging Ltd Through Director Ketan M. Vira ..Petitioner

Versus

AB And Co Corporate Services Pvt ltd Its Director Vikas Agarwal ...Respondent

Mr. Ashok M. Saraogi, with Prajot H. Jaggi, Pallavi Kulkarni, Daksha Parmar & Poonam Rajbhor, for the Petitioner.
Ms. Leena Sapra, for the Respondent.

CORAM: N. J. JAMADAR, J.
DATED : 18th FEBRUARY 2025

P.C.:

- 1.** Heard learned Counsel for the parties.
- 2.** The challenge in this Petition is to an Order dated 4th May 2024 passed by the learned Judge, City Civil Court in Notice of Motion No. 3962 of 2022 in Summary Suit No. 611 of 2016 seeking stay of the said suit under Section 10 of the Code of Civil Procedure 1908 (“the Code”) in view of the pendency of former suit, i.e., Suit No. 552 of 2015 instituted by Madhukant Vira and Ketan Vira against AB & Company Global Private Limited.

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3. By the impugned order, the learned Judge, City Civil Court was persuaded to reject the Application opining that the Petitioner-Defendant failed to show that the suits are between the same parties or the issues which directly and substantially arise for determination in the former suit also arise for determination in Summary Suit No. 611 of 2016 also

4. Having perused the impugned order and the Plaints in the respective suits, this Court does not find any justifiable reason to interfere with the impugned order as the issues which directly and substantially arise for determination in Suit No. 552 of 2015 do not so arise in Suit No. 611 of 2016. It cannot be said that the whole of the subject matter of Suit No. 611 of 2016 is covered by Suit No. 552 of 2015.

5. Mr. Saraogi, learned Counsel for the Petitioner, submits that apart from the said Suit No. 552 of 2015, which is pending before this Court, another suit i.e., Suit No. 488 of 2015 (now Suit No. 1274 of 2024) has been instituted by AB & Co Global Pvt Ltd against the Defendant in Summary Suit No. 611 of 2016.

6. There is a possibility of conflicting decisions if the suits No. 611 of 2016 and 488 of 2015 (now Suit No. 1274 of 2024) are decided by the different Courts.

7. It appears that the two suits are pending before the City Civil Court, i.e., Suit No. 611 of 2016 and Suit No 488 of 2015 (now Suit No. 1274 of 2024). Issues which may collaterally or incidentally arise for determination in both the suits may overlap.

8. It may, therefore, be expedient that the Summary Suit No. 611 of 2016 and Suit No. 488 of 2015 (now Suit No. 1274 of 2024) are heard and decided by the same Court.

9. Petition stands disposed with a direction that Suit No. 488 of 2015 (now Suit No. 1274 of 2024) be transferred to the Court seized with Summary Suit No 611 of 2016, for hearing and disposal in accordance with law.

10. It is hereby made clear that the suits are not clubbed together.

11. The Suits are to be decided independently in accordance with law and on their own merits.

[N. J. JAMADAR, J.]