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

**CIVIL REVISION APPLICATION NO. 322 OF 2025
WITH
INTERIM APPLICATION (ST) NO. 21949 OF 2025
INTERIM APPLICATION NO. 11931 OF 2024
INTERIM APPLICATION NO. 10692 OF 2025**

Anil Prabhakar SinkarApplicant
Vs.
Usha Deepak Sakpal and othersRespondents

**WITH
WRIT PETITION NO. 1414 OF 2025**

Usha Deepak SapkalPetitioner
Vs.
Anil Prabhakar Sinkar and orsRespondents

Mr. Shubham Bane i/b Mr. Sandeep Bane a/w Ms. Pooja Bane,
Mr.Atharva Bane and Ms. Ms. Shefali Jadhav for the petitioner in
CRA/322/2025 and for respondent no. 1 in WP 1414/2025

Mr. Bhavin Gada a/w Mr. Deepak Shukla and Mr. Praveen Mourya
i/b BNS Legal for the petitioner in WP 1414/2025 and for
respondent no. 1 in CRA/322/2025.

Mr. Satyajeet Dighe for respondent MHADA in both petitions

CORAM : GAURI GODSE, J.

DATE : 3rd SEPTEMBER 2025

ORDER:

INTERIM APPLICATION NO. 10692 OF 2025

1. In the facts and circumstances of the case delay is condoned and the application is allowed in terms of prayer clause (a).

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2. Learned counsel for the applicant after arguing the application for sometime seeks leave to withdraw the civil revision application with liberty to agitate all the objections raised in this civil revision application in the pending trial in the suit. Leave granted with liberty as prayed.

3. It is clarified that the observations in the impugned order are restricted to the extent of deciding the application under Order VII Rule 11 of the Code of Civil Procedure, 1908 ("CPC"). Hence, all the rival contentions of the parties on merits are kept open.

4. Civil Revision Application is disposed of as withdrawn with liberty as recorded above.

5. In view of the disposal of civil revision application, Interim Application No. 11931 of 2024 is disposed of as infructuous.

WRIT PETITION NO. 1414 OF 2025:

6. This petition challenges order rejecting the application for clubbing of the two suits for deciding i`t together. The application for clubbing was filed by the present petitioner who is plaintiff in S.C. Suit No. 2538 of 2017 and defendant no 4 in S.C. Suit No. 2834 of 2014.

7. Respondent No. 1 is the plaintiff in S.C. Suit No. 2834 of 2014. Respondent No. 2 -MHADA is party defendant in both the suits. Respondent No. 3 herein is defendant no. 2 in the petitioners S.C. Suit No. 2538 of 2017. Respondent No. 3 was initially made a party defendant in S.C. Suit No. 2834 of 2014, however, subsequently his name is deleted.

8. Pursuant to the earlier order passed this petition is taken up for final disposal. Learned counsel for the petitioner submits that both the suits are filed seeking various reliefs claiming right in respect of Gala No. 2/A. He points out that except for respondent no. 3 all the parties in both the suits are same. He submits that the claims in both the suit pertain to the same suit property. Hence, the result of both the suits will have direct effect on the claims in

both the suits. He thus submits that in the interest of all the parties both the suit needs to be clubbed and decided together.

9. Learned counsel for the petitioner submits that both the suits are pending before the same court and thus no prejudice would be caused to either of the parties if the suits are clubbed and tried together.

10. Learned counsel for respondent no. 2 – MHADA has no objection if both the suits are clubbed and tried together. Respondent no. 3 is served and has filed an affidavit in reply. None appears for respondent no. 3. I have perused the affidavit in reply filed by respondent no. 3. Even respondent no. 3 has no objection if both the suits are clubbed and tried together.

11. Learned counsel for respondent no. 1 opposes the application for clubbing on the ground that the prayers in both the suits are different. He therefore submits that even if both the suits are tried together, the decree in both the suits should be separate.

12. I have perused the papers of the petition and carefully perused the plaint in both suits. There is no dispute that both the suits pertain to the same suit property. Except for respondent no. 3

the parties to both the suits are same. Respondent no. 3 was made party initially in SC Suit No. 2834 of 2014, however the name was deleted by respondent no. 1 on 20th November 2014.

13. Considering the prayers in both the suits claiming right in respect of the same suit properties through MHADA, it would be in the interest of both the parties that both the suits be clubbed and tried together. I do not find any substance in the reasons recorded in the impugned order refusing to club both the suits for deciding it together.

14. For the reasons recorded above, this petition is allowed by passing the following order:

(i) Order dated 5th December 2024 passed by the learned Judge of the City Civil Court, Mumbai in Miscellaneous Application No. 04 of 2022 is quashed and set aside.

(ii) SC Suit No. 2538 of 2017 and S. C. Suit No. 2834 of 2014 shall be clubbed and tried together.

(iii) All rival contentions of the parties on merits of the suit are kept open to be decided in the trial.

- (iv) Writ Petition is disposed of in the aforesaid terms.
- (v) Needless to record that the parties shall co-operate for early disposal of the suits and shall not seek any unnecessary adjournments.

[GAURI GODSE, J.]