

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4749 OF 2025

SANTOSH
SUBHASH
KULKARNI

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Date: 2025.04.23
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Hirabai Baban Bhange and ors.

...Petitioners

Versus

Umakant Dattatraya Shinde and ors.

...Respondents

Mr. Ashok Tajane, a/w Balaji Shinde, for the Petitioners.

CORAM: N. J. JAMADAR, J.

DATED: 22nd APRIL, 2025

PC:-

1. Heard the learned Counsel for the petitioner.
2. The challenge in this petition is to an order dated 10th October, 2024, whereby the learned Principal District Judge rejected an application preferred by the petitioners to transfer both the suits i.e. RCS No.1575/2012 and RCS No.44/2021 to one and the same Court and record common evidence therein.
3. RCS No.1575/2012 has been instituted by respondent No.2 for a decree of specific performance of contract against the petitioners – defendant Nos.1 and 2. In the said suit respondent No.1 came to be impleaded as a party defendant No.3 on the application preferred by respondent No.1 for impleadment. Respondent No.1 has filed written statement in

the said suit and contested the claim of respondent No.2 for specific performance of the contract.

4. The petitioners have instituted a suit against respondent No.1 being RCS No.44 of 2021 seeking a declaration that the sale deed in respect of the suit property, which is the subject matter of RCS No.1575 of 2012, has been obtained fraudulently and it does not bind the petitioners.

5. Since common questions of fact and law may arise for determination, the two suits ought to be decided by one and the same Court though the prayer for clubbing cannot be entertained.

6. Issue notice to the respondents, for final disposal, returnable on 24th June, 2025.

7. In addition to notice through Court, the petitioners are at liberty to serve the respondents by private service and file an affidavit of service.

8. In the meanwhile, there shall be an ad-interim relief in terms of prayer clause (b).

[N. J. JAMADAR, J.]