



3. The petitioner has instituted Special Civil Suit No. 2415 of 2012 before the City Civil Court seeking a decree of specific performance of a verbal agreement for sale of the suit premises. Subsequently, the respondent, in turn, instituted a suit for recovery of possession of the suit premises, asserting that the petitioner is a gratuitous licensee in respect of the suit premises. The petitioner preferred an application for stay of the suit under Section 10 of the Code on the premise that the parties to both the proceedings are the same and the issues which arise from determination in both the suits are identical and separate trial of the suits might result in conflicting decisions. It was, therefore, necessary to stay the subsequent suit instituted by the plaintiff/respondent.

4. The Trial Judge as well as Appellate Bench of Court of Small Causes negated the claim of the petitioner.

5. Mr. Krishna Holambe Patil made an endeavour to persuade the Court to hold that there is an imminent risk of conflicting decisions, if both the suits are tried and decided independently. In the alternative, it was submitted that in the event the decree is passed in the suit before the Court of Small Causes, the same be not executed till the decision of the suit instituted by the petitioner for specific performance of the

verbal agreement.

6. Having perused the material on record, this Court does not find any material irregularity in the exercise of jurisdiction by the Appellate Bench of the Court of Small Causes. It does not appear that the issues which arise for determination in the suit before the Court of Small Causes directly and substantially arise for determination in the suit before the City Civil Court.

7. The Small Causes Court has exclusive jurisdiction in the matter of determination of the question as to whether the petitioner/defendant in the suit before the Court of Small Causes is a gratuitous licensee.

8. Both the suits can be tried and decided independently. If the question of title arises, provisions contained in section 45 of the Presidency Small Causes Court Act would govern the rights of the parties. Hence, the petition does not deserve to be entertained.

9. The petition stands dismissed.

(N.J. JAMADAR, J)