

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11960 OF 2025

Anil Nivritti Bugde

.. Petitioner

Versus

Ramchandrd B. Yadav & Anr.

.. Respondents

.....

- Mr. Anil Nivritti Bugde, Petitioner in Person present
- Ms. Resuma S. Mahajan, Advocate for Respondent No. 2

.....

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 30, 2025

P. C.:

1. I have heard Mr. Bugde, Petitioner in Person and Ms. Mahajan, learned Advocate for Respondent No. 2.

2. It is seen that there are two Suits which are pending before the Trial Court; one filed by Petitioner and second filed by Respondent No.2. Both Suits are nomenclatured as Special Civil Suit No. 78/2023 and 1408/2023.

3. On 16.09.2025 after hearing Mr. Bugde following order was passed:-

"1. Heard Mr. Bugde, Petitioner appearing in-person.

2. Grievance of the Petitioner is that by virtue of the impugned order dated 12.08.2025 Application filed below Exhibit "200" in Special Civil Suit No.1408 of 2023 is dismissed. That Application is filed by Petitioner for impleadment of CIDCO as proper and necessary party.

3. Mr. Bugde would inform the Court that previous Suit for the same cause of action filed by him namely Special Civil Suit No.519 of 2012 originally instituted as Special Civil Suit No.505 of 2009 is pending in Civil Court before the Civil Judge, Senior Division, Thane. Copy of that Suit

plaint is appended at Exhibit 'A' page No.20. He would submit that during pendency of the previous Suit, Defendant No.3 therein filed parallel Suit being Special Civil Suit No.841 of 2011 which is now nomenclatured as Special Civil Suit No.1408 of 2023 whereas the Suit filed by Petitioner previously is now nomenclatured as Special Civil Suit No.78 of 2023. Thus there are two Suits pending namely Civil Suit No.78 of 2023 filed by Petitioner and Civil Suit No.1408 of 2023 filed by Defendant No.3 which are being heard by the same Court. Both Suits are filed by the parties seeking declaration and injunction in respect of the suit property.

4. Record shows that in Special Civil Suit No.1408 of 2023 evidence has been recorded whereas in Special Civil Suit No.78 of 2023 the evidence is not recorded.

5. Case of Petitioner is that he desires to adopt the evidence in the Suit filed by Defendant No.3 in his Suit. In that view of the matter, since cause of action in both Suits is the same, the learned Trial Court has held that CIDCO which is already a party in the connected Suit filed by Petitioner, it need not be impleaded in the Defendant No.3's Suit. On this ground Application for impleadment of CIDCO has been rejected.

6. Mr. Bugde would inform the Court that there is no order which directs hearing of both the Suits together. It is only in view of this reason that I am issuing notice to Respondent in the present Writ Petition. If order to hear and decide both Suits together is passed then the impugned order need not be interfered with.

7. Hence, issue notice to Respondent. Humdast permitted.

8. In addition to Court notice, Petitioner is permitted to serve copy of Writ Petition and this order on Respondent and inform him about the next date of hearing by any permissible mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date.

9. After receiving notice, Respondent is directed to remain present in Court on the next adjourned date either himself or through Advocate.

10. Respondent is directed to take cognizance of this order and file Affidavit-in-Reply on or before the next date, if so desired.

11. Plea of Petitioner regarding impleadment of CIDCO shall be considered by the Court when Writ Petition is determined on the next date.

12. This Court desires to pass order after hearing Respondent to the effect that proceedings in both Suits which are pending shall be heard and decided together in accordance with law since cause of action in both Suits is identical and similar.

13. Parties shall note the above stance suggested by the Court.

*14. Stand over to **30th September 2025**. To be placed under the caption **'First on Board'.**"*

4. In view of the directions contained in paragraph Nos. 3 to 5, it would be in the interest of justice if direction is given for conducting trial of both the aforesaid Suits together. Both the Suits are pending in the same Court. Learned Trial Court is directed by this Court to tag both the Suits together and decide the same together in accordance with law. Though it is seen that evidence in one of the Suit has already been recorded partly, learned Trial Court shall accordingly take a call after hearing the parties depending upon the issues that are framed.

5. I am informed by learned Advocates at the Bar that parties are the same, substantially the issues are the same since cause of action is the same in both the Suits. Present Writ Petition is filed to challenge rejection order for impleadment of CIDCO in one of the Suit proceedings. In my opinion CIDCO is not necessary party to the *lis* between the parties. Nevertheless it shall be open to the Petitioner to file an appropriate Application before the Trial Court seeking issuance of witness summons production of contentious documents by CIDCO which according to the Petitioner are forged documents. Needless to state that Defendants shall be entitled to lead evidence in rebuttal in respect of the said contentious documents if the need arises. All questions of both the Plaintiff and Defendants the parties before me in

both the Suit proceedings are expressly kept open without this Court giving its imprimatur on the merits of the matter.

6. Considering the issue which is involved, learned Trial Court is directed to expedite hearing of both the Suits strictly in accordance with law. Both the parties are requested by Court to adhere to the decorum of Court while conducting the Suit proceedings before the Trial Court.

7. In view of the above directions, Writ Petition is disposed in the above terms.

[MILIND N. JADHAV, J.]

Amberkar

RAVINDRA
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Digitally signed
by RAVINDRA
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AMBERKAR
Date:
2025.10.01
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