

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 127 OF 2025

ANAND
SUDHAKAR
SUDAME

Madhukant Kunwar Vira & ors.

..Applicants

Versus

AB & Co. Global Pvt. Ltd. & ors.

..Respondents

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ANAND SUDHAKAR
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Date: 2025.11.06
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Mr. Ashok M. Saraogi i/b. Mr. Prajot H. Jaggi, Ms. Pallavi Kulkarni,
Ms. Daksha A. Parmar, Advocates, for the Applicants
Mr. A. R. Patil, Addl. GP, for the Respondent – State
Ms. Leena D. Sapra, Advocate, for Respondent Nos. 1 & 2

CORAM : RAJESH S. PATIL, J.

DATE : 03.11.2025

P. C.

1. Heard learned Counsel for the respective parties and with their assistance, I have gone through the documents on record.

2. Applicant Nos. 1 & 2 have earlier in point of time filed Suit No. 552 of 2015 against Respondent Nos. 1 & 3 herein. The said Suit is pending before the Bombay High Court in which draft issues have been tendered.

3. Subsequently, Respondent No. 1 has filed Suit No. 488 of 2015 against Applicant Nos. 1 & 2 herein. The said Suit has been subsequently transferred to the City Civil Court from the Bombay High Court, since there was an enhancement in the pecuniary jurisdiction of

the City Civil Court. So also Respondent No. 2 filed a Summary Suit No. 611 of 2016 before the City Civil Court against Applicant No. 3.

4. It has been argued before me that in the Summary Suit No. 611 of 2016, two Notice of Motions were preferred by the Defendants therein which were heard and disposed of. Writ Petition challenging the said orders passed in the Notice of Motions has been filed before this Court. The said Writ Petition was disposed of by the learned Single Judge of this Court vide Order dated 18.02.2025. The said Order passed in W. P. No. 18438 of 2024 is reproduced for ready reference hereinbelow :-

“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.

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.”

5. Observations are made by the learned Single Judge of this Court in paragraph Nos. 7 & 8 that, the issues may collaterally or incidentally arise for determination in both the Suits may overlap. Therefore, Summary Suit No. 611 of 2016 and Suit No. 488 of 2015 (now Suit No. 1274 of 2024) be heard and decided by the same Court. The Writ Petition was accordingly disposed of by transferring Suit No. 488 of 2015 (now Suit No. 1274 of 2024) to the Court, where Summary Suit No. 611 of 2016 was pending for hearing. It was clarified that the Suits were not clubbed together but were to be heard by the same Judge in accordance with law.

6. It was submitted before me that parties to the Summary Suit No. 611 of 2016 and Suit No. 488 of 2015 (now Suit No. 1274 of 2024) are different and parties to the Suit pending before the Bombay High Court, being Suit No. 552 of 2015 are different, in the sense that the Plaintiffs in Suit No. 552 of 2015 are the Defendants in Suit No. 488 of 2015 (now Suit No. 1274 of 2024) and Defendant No. 1 in Suit No. 552 of 2015 is the Plaintiff in Suit No. 488 of 2015 (now Suit No. 1274 of 2024).

7. In my view, therefore, Summary Suit No. 611 of 2016 has reached to the stage where summons for Judgment has already been decided and pursuant thereto, the Defendants have complied with the

directions of depositing the amount before the City Civil Court. That Suit cannot be clubbed together with the pending Suit No. 552 of 2015 before this Court.

8. Now, the question would be whether the Suit No. 488 of 2015 (now Suit No. 1274 of 2024) can be clubbed together with the Suit No. 552 of 2015. The learned Single Judge of this Court by Order dated 18.02.2025 while deciding the Writ Petition filed by the Defendant in Summary Suit No. 611 of 2016 (K. P. Packaging Limited) has held that Suit No. 488 of 2015 (now Suit No. 1274 of 2024) be heard by the Judge who is hearing Summary Suit No. 611 of 2016. The said order has attained finality, as the present Plaintiff's submissions were heard and the learned Single Judge passed the Order dated 18.02.2025.

9. Therefore, in my view, the present Miscellaneous Civil Application is devoid of merits.

10. Hence, the Miscellaneous Civil Application stands rejected.

(RAJESH S. PATIL, J.)