



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.129/2025

Smt. Saroj Bansilal Batra .Vs. Shyamsundar Diwanchand Batra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. K. N. Shobhane, Advocate for petitioner.

CORAM : **ANIL L. PANSARE, J.**

DATE : **JANUARY 9, 2025**

Heard.

2. Challenges is to order dated 30.06.2023, passed below Exh.-20, by learned Civil Judge Junior Division, Saoner, in Regular Civil Suit No.40/2017, refusing to accept the request of the petitioner-plaintiff to stay subsequent suit filed by the respondent-defendant.

3. The petitioner has filed a suit being Regular Civil Suit No.157/2015, for declaration and permanent injunction. The petitioner has sought declaration that he is tenant of the suit premises. The respondent filed a suit being Regular Civil Suit No.40/2017, for recovery of possession on the ground that the petitioner is a trespasser.

3. The Trial Court held that the parties are same and subject matter of the suits is same and thus the purpose will be served, if both the suits are tried together.

4. This view is taken, considering the stage of the proceeding. The Trial Court noted that part evidence has been

completed and further that both the suits are more than five years old.

5. To my mind, the Trial Court has taken a pragmatic view in the matter. Ultimately, the outcome will depend on the character of the petitioner in holding possession of the suit property. If the tenancy is proved, the defence of the respondent that the petitioner is trespasser would be invalidated. As against, if the petitioner fails to prove that he was tenant, the claim of respondent that the petitioner is trespasser can be considered. Thus, both the suits can be decided through common evidence.

8. Considering the above, no interference is called for in the supervisory jurisdiction under Article 227 of the Constitution of India. The writ petition is, therefore, dismissed. No order as to costs.

(Anil L. Pansare, J.)