



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1439 OF 2025

Satish Prabhakar More, Aged about 41 years, Occ: Service,
R/o Borgaon Khurd, Tq. and Dist. Akola and also R/o Plot
no.23, Professor Colony, Ranpise Nagar, Akola, Tq. and
Dist. Akola.

PETITIONER

VERSUS

1. Kokilabai Pralhadrao Dhote, Aged Adult,
Occ: Agriculturist.
2. Deepak Pralhadrao Dhote, Aged-Adult,
Occ: Agriculturist and Service.

Both R/o Borgaon Khurd, Tq. and Dist. Akola. At
present R/o Mumbai, Dist. Mumbai. Through SPL
POA holder Shaligram Bhikaji Dhore, aged about
Adult, Occ:Agriculturist, R/o Borgaon Khurd,
Tq. and Dist. Akola.

RESPONDENTS

Shri A.R. Deshpande, counsel for the petitioner.
Shri Sagar Katkar, counsel for the respondents.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : NOVEMBER 12, 2025

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with
consent of the counsel for the parties.

2. The petitioner's challenge in the instant petition is to the order dated
03.12.2024 passed by the trial Court in Regular Civil Suit No.124 of 2020
rejecting the application for consolidation of two civil suits bearing Regular
Civil suit No.124 of 2020 and Regular Civil Suit No.94 of 2024.

3. The petitioner is original defendant in Regular Civil Suit no.124 of
2020 which is a suit for removal of encroachment, possession, damages,
mesne profit and permanent injunction with respect to the suit property
bearing agriculture land Gat no.284 of Mouza Borgaon Khurd, Taluka and

District Akola. The adjacent land owners of the suit property have filed Regular Civil Suit no.94 of 2024 seeking declaration and permanent injunction claiming right of way from the eastern side of Gat No.284. Since the suit property is same in both the civil suits, the petitioner/defendant in Regular Civil Suit no.124 of 2020 filed an application at Exhibit 42 seeking consolidation of Regular Civil Suit no.94 of 2024 for recording evidence and decision alongwith Regular Civil Suit no.124 of 2020. The plaintiffs opposed this application and by order dated 03.12.2024, it came to be rejected. Feeling aggrieved, the petitioner has file the instant petition.

4. Primary contention of the learned counsel for the petitioner is, since both the civil suits are with respect to the same property and the issues involved are likely to be same and to avoid conflicting findings, the evidence in both the suits need to be recorded at the same time by consolidating both the civil suits. The learned counsel for the petitioner submitted that both the civil suits need to be consolidated to avoid multiplicity of proceedings, delay and expenses. In support of his submissions, the learned counsel placed reliance on the judgment of the Hon'ble supreme Court in *Chitivalasa Jute Mills Versus Jaypee Rewa Cement* [(2004) 3 SCC 85].

5. Shri Sagar Katkar, learned counsel for the respondents by inviting attention to the pleadings and prayer clauses of both the civil suits submitted that the causes of action and reliefs claimed in both the suits are different and recording of common evidence would create confusion and complications. He submitted that both the suits need to be decided separately and opposed the request for consolidation of the civil suits.

6. On a perusal of the pleadings in both the civil suits and the reliefs sought, it becomes amply clear that the issues involved in both the suits are not similar although the property involved is same i.e. Gat no.284. Apart from this, the cause of action in both the civil suits is also different and even the parties to the suit are not the same except some of the parties. In view of the cause of action of two civil suits and the controversy involved being different, same evidence cannot be recorded in both the suits. So also considering the nature of controversy involved in both the suits, they cannot be decided by way of common judgment. Regular Civil Suit no.124 of 2020 is for removal of encroachment and possession whereas Regular Civil Suit no.94 of 2024 is filed by the adjacent land owners claiming right of way from the eastern side of suit property and seeking declaration in that regard. As such, considering the fact that the cause of action and issues involved in both the suits are different, I am of the firm opinion that there is no need to consolidate both the civil suits for recording common evidence and delivering common judgment. At the most, in view of the fact that the suits are with respect to the same property, both the civil suits can be tried on the same day by making such request to the concerned Courts only for the sake of convenience of the parties.

7. A perusal of the impugned order shows that the trial Court has given due consideration to the relevant aspects and has passed a reasoned order. Pertinent to note, the Hon'ble Supreme Court in *Chitivalasa Jute Mills* (supra) has specifically observed that there is no provision for consolidation of the suits but the same can be done under inherent powers of the Court flowing from Section 151 of the Code of Civil Procedure, 1908. The judgment is not of any assistance to the petitioner.

8. Considering the controversy involved in both the civil suits, I do not find any perversity in the approach of the trial Court rejecting the application for consolidation of the suits. In view of abovementioned legal and factual aspects, no interference is warranted under Article 227 of the Constitution of India. However, proceedings of both the suits can be conducted simultaneously, by listing both the cases before the same Court on the same dates.

9. In view of aforesaid, the writ petition is disposed of with no order as to costs. Rule accordingly.

(PRAFULLA S. KHUBALKAR, J.)

APTE