IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 WRIT PETITION NO. 3372 OF 2024

JAYSHREE VIRBHADRA GABANE
VERSUS
RACHAPPA SHANKAR GABANE AND ANOTHER
...
Mr. Sushant Baburao Choudhari, Advocate for the Petitioner
Mr. S. N. Patne, Advocate for Respondent Nos.1 and 2
...

CORAM : AJIT B. KADETHANKAR, J.
DATED : 1st October 2026

P.C. :-

. Considering the very short controversy, the writ petition is being disposed of at the instance of the parties at the admission stage, as also on a common proposal at the hands of both the sides to the Court.

2. Suffice to note, few facts could be seen as below :

a. The respondents filed Regular Civil Suit No.311 of 2019 against the present petitioner and six more persons seeking declaration of ownership and perpetual injunction in respect of land admeasuring 1H 47 R in Gut No.305 situated at Sawargaon Tal. Tuljapur, Dist. Dharashiv. The said suit came to be filed on 13.08.2019 before the learned Trial Court.

b. Before the notices in the said suit could be served on the present petitioner, she instituted Regular Civil Suit No.365 of 2019 in the same Court in respect of the same suit property as referred to above seeking a decree of perpetual injunction against the present respondents.

c. In the suit filed by the present petitioner i.e. Regular Civil Suit No.365 of 2019, notices were served on the defendants/present respondents who filed their written statement. Issues came to be framed and the matter was posted for evidence.

d. At this juncture the original plaintiffs in Regular Civil Suit No.311 of 2019 filed an application before the Trial Court at Exhibit 31 taking recourse to Section 10 of the Code of Civil Procedure.

e. It was contended that Regular Civil Suit No.365 of 2019 was filed on 20.09.2019 i.e. about 37-38 days after filing of Regular Civil Suit No.311 of 2019 demonstrating that the suit property in both the suits is the same one. It was sought to stay the proceedings in Regular Civil Suit No.365 of 2019.

f. After hearing both the parties, the learned Trial Court was pleased to grant the said application by its order dated 08.12.2023. Thus, being aggrieved by the stay of the proceedings in Regular Civil Suit No.311 of 2019, the petitioner is before this Court.

3. It is an apparent and undisputed fact that in both the suits the parties are the same. In fact, in the former suit there are some more parties. However, the suit property in both the suits is one and the same. Pertinent to note, although both the suits are being tried by the same Court while in the latter suit the proceedings reached the stage of trial, notices in the earlier suit came to be served only after the impugned order was passed.

4. Suffice to note, the relief claimed by the respondents in their suit i.e. the earlier suit is for a decree of declaration as to ownership and consequential relief of perpetual injunction. Then on the other hand as recorded above, the relief sought in the petitioner's suit i.e. the latter suit is only to the extent of a decree for perpetual injunction.

5. In the light of the controversy, both the learned Advocates for the respective parties submit that considering

that although the petitioner's suit is filed hardly a few days after the suit of the respondents, still, considering that the latter suit has reached the stage of trial, let both the suits be tried together by the Trial Court. They pertinently submit that since both the suits are pending before the same Court, it would be in the interest of justice to avoid multiplicity of litigation and contradictory pleadings and evidence, directions be given to the Trial Court to hear both the suits simultaneously.

6. Giving a pragmatic thought to the request advanced by both the sides I find that for the reasons recorded above, it would be in the interest of justice if the impugned order is quashed and set aside, and if the Trial Court is directed to hear both the matters simultaneously, it would cause no prejudice to the other side; instead, it would facilitate smooth adjudication of the real controversy between the parties.

7. In view of this, I pass the following order:

ORDER

I. The writ petition stands allowed.

II. The impugned order dated 08.12.2023 passed by the learned Trial Court stands quashed and set aside.

III. The learned Trial Court is requested to try both the suits i.e. Regular Civil Suit No.311 of 2019 and Regular Civil Suit No.365 of 2019 simultaneously.

IV. Both the learned Advocates for the respective parties submit that their clients shall cooperate and assist the Court in early disposal of the suits without seeking unnecessary adjournments.

V. In view of the above, the learned Trial Court is requested to conclude the proceedings in both the suits within a period of twelve months from today.

VI. The writ petition stands disposed of.

(AJIT B. KADETHANKAR, J.)

PRW