

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14948 OF 2023

Karmaveer Kakasaheb Wagh Education Society	Petitioner/ .. Ori.Plaintiff
Versus	
M/s. Usha Industries and Ors.	.. Respondents

WITH
WRIT PETITION NO.17870 OF 2024

Karmaveer Kakasaheb Wagh Education Society	Petitioner/ .. Ori.Plaintiff
Versus	
M/s. Usha Industries and Ors.	.. Respondents

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- Mr. Prafulla Shah a/w Mr. Sandeep Waghmare, Advocates for Petitioner in both Petitions.
 - Mr. Girish Agrawal, Advocate for Respondent No.1 in both Writ Petitions.

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CORAM : MILIND N. JADHAV, J.
DATE : JUNE 10, 2026

P.C.:

- 1.** Not on Board. Mentioned by way of filing separate praecipes dated 10.06.2026. Perused the praecipes.
- 2.** Heard Mr. Shah a/w Mr. Waghmare, learned Advocates for Petitioner and Mr. Agrawal, learned Advocate for Respondent No.1.
- 3.** Two Writ Petitions are mentioned before me today. In Writ Petition No.14948 of 2023 Mr. Agrawal appears for Respondent No.1 – M/s. Usha Industries. He informs the Court that the said Suit is at the stage of final arguments before the learned Trial Court. The order

impugned in the said Suit is dated 07.11.2023 passed below Exhibit-117 under Section 10 of the Code of Civil Procedure, 1908. Application of Plaintiff for stay of Suit having been rejected is the subject matter of challenge of this Writ Petition. However the Suit has progressed in the meanwhile and is at the stage of final arguments. Petition has been pending in this Court for past more than three years during which time, the said order was not stayed ultimately leading to the Suit proceedings having been proceeded in the learned Trial Court.

4. Next Mr. Shah draws my attention to Writ Petition No.17870 of 2024. The impugned order therein is passed on 07.08.2024 rejecting Civil Miscellaneous Application No.153 of 2023 filed below Exhibit-1 seeking transfer, clubbing and hearing of both pending Suits viz, Special Civil Suit No.39 of 2010 alongwith Regular Civil Suit No.100 of 2012 before the Court of 6th learned Joint Civil Judge Senior Division, Nashik.

5. Mr. Shah represents and espouses the cause of the Education Society who is Plaintiff in Special Civil Suit No.39 of 2010. He would submit that cause of action and reliefs prayed for in this Suit are overlapping in the second Suit No.100 of 2012. Hence he would persuade the Court to consider clubbing them together and pass appropriate directions accordingly.

6. After hearing Mr. Shah and Agrawal for sometime and on

perusing the pleadings, it is *prima facie* seen that even if there may be some commonality of parties which are appearing in both Suits, the principal causes of action in both suit proceedings are entirely different. First Special Suit No.39 of 2010 is filed for specific performance by Mr. Shah's client however second Suit No.100 of 2012 is filed for seeking declaratory relief of entitlement on the basis of adverse possession.

7. All parties, except Mr. Agrawal, on notice are not present before the Court when the matters are mentioned. Mr. Shetye represents some of the parties as informed by Mr. Agrawal. After going through the pleadings, I am of the clear opinion that no purpose whatsoever will be served by keeping the present Petitions pending since they are leading to further delay, prolongation and disposal of the Suit proceedings and the ignominy of the parties.

8. *Prima facie*, I am also not inclined to accept the submissions made by Mr. Shah that cause of action and reliefs prayed for in both the Suits are common and as such an order for determining, hearing and deciding both the Suits together should therefore be passed. However considering the Suit property involved in both Suits, the best order that can be passed is to direct the concerned Court where the Suits are pending to be heard by one Court only. It is seen that first Special Civil Suit No.39 of 2010 is pending before Civil Judge Senior

Division, Nashik whereas the second Suit is pending before 6th Judge Civil Judge Senior Division, Nashik.

9. Mr. Shah in his usual fairness has drawn my attention to the impugned order and more specifically paragraph No.10 wherein Application for tagging of Suits has been declined. I *prima facie* agree with the said order. However in order to ease the ignominy of the parties, the Civil Judge Senior Division, Nashik is directed to hear both the Suits which shall be heard by the said Court, however separately.

10. Mr. Agrawal would apprise that Regular Civil Suit No.100 of 2012 was originally filed and numbered as Regular Civil Suit No.60 of 1994 and the same has remained pending for the past more than 30 years. Hence he would persuade the Court to expedite the said Suit. I am inclined to accept the request and therefore direct the Civil Judge Senior Division, Nashik to expedite the hearing and disposal of the said Suit which is at the stage of final arguments.

11. With the above directions, no further orders are required to be passed in both Writ Petitions, while sustaining the impugned orders.

12. Liberty to apply to parties in the event of difficulty.

13. With the above directions, both the Writ Petitions are disposed.