

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6773 OF 2026

Ashok Genuji Shivale and Anr ..Petitioners

Versus

Sopan Dattoba Lahot and Ors ...Respondents

Mr. Kishor Patil, i/b Arjun S Pawar, for the Petitioners.

CORAM: N. J. JAMADAR, J.

DATE : 9th JUNE 2026

ORAL ORDER:

1. Heard the learned Counsel for the Petitioners.
2. The challenge in this Petition is to an order dated 2nd February 2026, whereby an Application preferred by the Petitioners purportedly under Sections 10 and 11 of the Code of Civil Procedure, 1908 (“the Code”), came to be rejected.
3. The learned Civil Judge, Junior Division, Ghodnadi, Pune, was of the view that the subject matter, cause of action and reliefs claimed in the instant Suit; RCS No. 78 of 2023 and the former Suit; RCS No. 126 of 2015, were different and, thus, the provisions contained in Section 10 of the Code were not attracted. Mr. Patil, the learned Counsel for the Petitioners disputes this position.
4. Mr. Patil further submitted that the learned Civil Judge has not delved into the bar of *res judicata* under Section 11 of the Code. Attention of the Court was invited to the judgment and decree passed in

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Civil Appeal No. 66 of 1991. It was submitted that the said judgment clearly operates as *res judicata*.

5. Even if the submission on behalf of the Petitioners is taken at par, the issue of *res judicata* will be required to be tried and determined by the Trial Court, after perusal of the pleadings in both the suits, the issues settled therein and the judgments delivered in the former suit.

6. The Court is informed that RCS No. 126 of 2015 is pending on the file of the same Court which is seized with RCS No. 78 of 2023.

7. In the aforesaid view of the matter, it would be appropriate to direct that RCS No. 126 of 2015 and the instant suit, i.e., RCS No. 78 of 2023 be heard and decided by the same Court, simultaneously yet independently. So far as the objection of the Petitioners that the judgment passed in Civil Appeal No. 66 of 1991, operates as *res judicata*, the Petitioners shall be at liberty to file an Application to frame and decide the issue of *res judicata* as a preliminary issue.

8. In the event such an Application is filed, the learned Civil Judge shall decide such Application on its own merits and in accordance with law.

9. Subject to the aforesaid directions, the petition stands disposed.

[N. J. JAMADAR, J.]