

CNR NO:MHSCA20036352007

IN THE COURT OF SMALL CAUSES, MUMBAI
ORDER BELOW EXHIBIT-113
IN
R.A.E. SUIT NO.1360 OF 2007

Abdul Rehman Haji Umer Motiwala- deleted since deceased
1(a). Mrs. Sumaiya Sufiyan Kapadia & Ors. ... Plaintiffs
Vs.

1. Sundari P. Shetty- deleted since deceased
2. Shri. Mohan P. Shetty & Ors. ... Defendants

Coram : Enna V. Dhande, Judge
C. R. No.17
Date : 11/08/2026

ORDER:-

This application is made for the permission to take common cross-examination of R.A.E. Suit no.1360 of 2007, 1361 of 2007 and 1362 of 2007.

2. It is submitted by the defendants that subject matter is one premises which is divided into three tenancies and accordingly, three separate suits have been filed. Since the premises is one, the evidence in one case directly impact the other cases. The plaintiff has already filed evidence in present suit and R.A.E. Suit no.1361 of 2007. The plaintiff is yet to file evidence in another suit i.e. R.A.E. Suit no.1362 of 2007. As per plaintiff, most of the original documents in the present suit are also relied upon in the other suits. Hence, this application.

3. The plaintiff has objected the said application by filing say at overleaf of the application and stating that there are three independent separate suit premises. Each matter has separate

premises. Separate rent receipts is issued for each premises. Cause of actions are also different in each matter. Hence, prayed for rejection of the application.

4. Read the application and Say. Heard Ld. Advocates for both sides. Perused the record.

5. It is true that the suit relates to the same building and involved the same landlord-tenant relationship. All three suits are pending before this Court and that the plaintiff's witness sought to be cross examined, is common in both the suits. As submitted by Ld. Advocate for plaintiff that the matters have separate cause of actions and grounds of eviction pleaded. The matters are more than 15 years old. The Court is required to expedite the matters. The Court is therefore required to adopt a procedure which facilitates fair adjudication and at the same time, avoids unnecessary duplication of evidence and wastage of Judicial time.

6. The similarities of the parties, premises and witness can lead to subjecting the same witness to completely separate cross examination on overlapping matters in repetition and unnecessary prolongation of the proceedings.

7. At the same time, the fact that common cross-examination if permitted would not result in merger or consolidation of all the three suits. The causes of action, pleadings, issues and reliefs in the respective suits shall continue to remain separate.

8. Therefore, in the interest of convenience and to avoid unnecessary duplication, this Court is of the view that the common cross-examination of the witness can appropriately be recorded

without causing prejudice to either party. Accordingly, the following order is passed:-

ORDER

1. Application is allowed.
2. Both parties are directed to proceed on next date without further delay.

Date:- 11/08/2026

**(Enna V. Dhande)
Judge, C.R. No.17
Small Causes Court, Mumbai.**