

MHRG040040762022



:: ORDER BELOW EXH. 56 ::

(Passed on 01/07/2026)

The defendant Nos. 1 and 4 to 8 filed the present application to stay the suit under Section 10 of Civil Procedure Code.

2] The plaintiff objected the application by filing say vide Exh. 66.

3] Defendants filed their written argument vide Exh. 70.

4] Heard Ld. Advocate Shri Urankar for plaintiff.

5] The defendants contended that there is a previously instituted suit between the same parties for the same subject matter bearing RCS No.71/2018. The defendants further contended that in respect of the same subject matter and same reliefs plaintiffs filed this subsequent suit. The fact in issue between both the suits are same, therefore, the defendants contended that this suit be stayed under Section 10 of CPC till decision on RCS No. 71/2018.

6] Ld. Advocate Shri. Urankar has objected the application. He has brought to notice to the Court that the

plaintiffs in the previous suit were transposed as defendants. He has further pointed out the different reliefs claim in this suit. The CIDCO was not party to the previously instituted suit. The valuation of the suit is more than Rs. 5,00,000/-. Therefore, he has submitted that application shall be rejected.

7] The previous plaint filed by vide Exh. 65/1. In previously instituted suit the plaintiff Nos. 1 to 6 were transposed as defendant Nos. 9 to 14 as per order Exh. 52. The application Exh. 52 were preferred by the plaintiff Nos. 1 to 6 in previously instituted suit to change of advocate and while deciding the said application, the court has transposed the plaintiff Nos. 1 to 6 as defendant Nos. 9 to 14. So, as on today's date the plaintiffs are not remained as plaintiffs in previously instituted suit.

8] It further reflects that the previously instituted suit and this suit filed for the partition and separate possession. In previously instituted suit the relief of declaration that the gift deed dated 17/01/2017 be declared as null and void has been claimed. While in this suit there are reliefs claim in respect of the partition of premium amount. It further claimed the relief in respect of allotted plot from the CIDCO. There are reliefs claimed against the CIDCO in present suit and therefore, the defendant Nos. 15 to 17 has been impleaded. The defendant Nos. 15 to 21 were not party to the previously instituted suit.

9] Perusal of plaint in both the suits, it reflects that the present suit is for exhaustive claim. So, this is not the case that the facts in issue in both the suits are same. It is also not the case that

the parties in the both the suits are same. Therefore, in such circumstance it would not appropriate to stay this suit till disposal of previously instituted suit.

10] However, it further appears that in both the suits the core issue is in respect of the partition and separate possession. Therefore, it would be more appropriate that both the suits shall be decided by the same Court, in order to avoid the conflicting finding. Thus, I pass the following order.

:: ORDER ::

- 1] Application Exh. 56 is rejected.
- 2] Issue request letter to Hon'ble Principal District Judge for transferring the suit RCS No. 71/2018 pending before Civil Judge Junior Division Uran to this Court or alternatively both the suits shall be transferred to the any other Court for disposal in accordance with law.

Dt. 01.07.2026

(Dr. D. U. Dongare)
2nd Jt. Civil Judge Senior Division
Panvel.

CERTIFICATE

“I affirm that the contents of this P. D.F. file Judgment/ order is same word for word as per original Judgment/ order.”

Name of the Court :- Dr. D. U. Dongare
2nd Jt. C.J.S.D.,
Panvel

Name of the Steno :- Smt. P. P. Shinde

Date of Judgment/ Order :- 01/07/2026

Judgment/ Order Signed
by P.O. on :- 01/07/2026

Judgment/ order uploaded on :- 01/07/2026