

ORDER BELOW EXH.30

(Passed on 18-09-2025)

This is an application filed by the defendant no.4 under section 10 of the Code of Civil Procedure,1908 (in short 'CPC').

2. In this application it is contended by the defendant no.4 that, the plaintiff has filed this suit for the relief of declaration and permanent injunction. In this suit plaintiff has sought declaration that the defendant no. 4 has no right to create a new road from the agricultural land gat no. 8. Further the plaintiff has sought the relief of permanent injunction for restraining the defendant no.4 from creating new road on the area mentioned in suit map with marathi alphabets अबकड.

3. It is further contended by the defendant no.4 that, the plaintiff has already filed RCS No. 159/2023 against the present defendants. The subject matter of present suit and RCS No. 159/2023 is one and same. The defendant no.4 has also filed application under Section 5 of Mamlatdar Court Act. Said matter is also pending before Mamlatdar Court. In such circumstances as the parties of present suit and the parties mentioned in RCS No. 159/2023 are same, as the matter in issue involved in present suit and RCS No. 159/2023 is directly and substantially same. This suit shall not proceed with the trial of RCS No. 159/2023. So, the trial of this suit be stayed vide Section 10 of CPC till the final disposal off of RCS No.159/2023.

4. The plaintiff has filed his say to this application at Exh.31. In his say he has contended that, the present suit is filed for declaration that the order dated 30.11.2024 passed by Tahsildar, Akot in रा.मा.व्.एमसीए ५/लोहारी बु./२०११-२२ is illegal,

void and against the principle of natural justice. The subject matters and prayers of both suits are totally different. Therefore, this application is not tenable. So, it be rejected with costs.

5. Heard the learned respective advocates of both sides at length. I have gone through the overall record and submissions. Perusing the plaint of this suit and the copy of the plaint of RCS No. 159/2023, it is very clear that present suit is filed against total 10 defendants and the RCS No.159/2023 was filed against the present defendant no.4 only. Further in RCS No. 159/2023 no declaration in respect of the order dated 30.11.2024 passed by Tahsildar, Akot in रा.मा.व.एमसीए ५/लोहारी बु./२०११-२२ was sought by the plaintiff. But, in present suit the main prayer of plaintiff is the prayer of declaration in respect of said order.

6. In above circumstances, at this juncture there is nothing on record to believe that the matter in issue involved in this suit is directly and substantially in issue in a previously instituted RCS No. 159/2023. Further it also appears that most of the parties of present suit are not the parties in RCS No. 159/2023. In such circumstances this suit cannot be stayed vide Section 10 of CPC as prayed by the defendant no.4. Hence, this application deserves to be rejected. Hence, I pass the following order.

ORDER

1. The application Exh.30 is hereby rejected.
2. Costs in main cause.

Date : 18/09/2025.

(Mahesh S. Kale)
Civil Judge (Sr. Dn.),
Akot.