

ORDER BELOW EX.60

(Date - 16/01/2020)

The present application is filed by the plaintiff for consolidation of suits i. e. present suit and Reg. Civil Suit No.12/2018 filed by the defendant No.2 against defendant No.1.

2) Read application and say filed by the defendant No.2. The defendant No.1 did not file say inspite of sufficient opportunity. Heard both sides at considerable length.

3) The plaintiff submitted that, the pleadings and the relief in both the suits are same. In both the suits, the present plaintiff and in Reg. C.S.No.12/2018 present defendant No.2 are seeking possession of same property. Hence, he prayed for consolidation of suits.

4) Defendant No.2 controverted the application of the plaintiff on the count that, prayer in both the suits are different. Hence, he prayed for rejection of the application.

5) On perusal of record it appears that, the present suit was dismissed on merit. Thereafter, the present plaintiff filed appeal before the Hon'ble District Court, Akola. During

pendency of that appeal, the defendant No.2 is arrayed in that appeal as respondent No.2 and defendant No.2 in the present suit. Thereafter, to have an opportunity to defendant No.2 to lead evidence and defend the same, the Hon'ble District Court, Akola remanded this matter to this Court.

6) On going through the judgment passed by the Hon'ble District Court, Akola in para No.11, it is held that, it was the submission of defendant No.2 that, he already filed Reg. Civil Suit No.12/2018 before this Court in respect of the same subject matter. In the present suit and in Reg. Civil Suit No.12/2018, both the parties are claiming their rights on plot No.A-47, ad-measuring 12,000 sq. meter, situated at Mouje Hatgaon, Tq. Murtizapur from defendant No.1. The pleadings, the reliefs and the property including in both the suits are the same.

7) When pleadings of parties and relief claimed therein are same in both the suits and the subject matter is also same, then the parties are relieved of need of adducing the same or similar documentary or oral evidence twice over in the two suits at two different trials.

8) In the circumstances consolidation of suits, could meet the ends of justice and it save the parties from multiplicity of proceedings, delay and expenses. In my view when substantial and similarity of the issues arising for decision in two suits enables two suits being consolidated for trial and decision. The Code of Civil Procedure does not specifically speaks of consolidation of suits. But, the same can be done under inherent powers of the Court flowing from section 151 of the Code of Civil Procedure. Hence, I pass following order.

ORDER

- 1) The application is allowed.
- 2) Reg. Civil Suit No.46/2012 and Reg. Civil Suit No.12/2018 are consolidated.
- 3) Copy of this order be placed on record of both the suits.

Dt.16.01.2020

(U.B.Pethe)
Jt. Civil Judge (J.D),
Murtizapur.

Certificate

I affirm that the contents of this file are same word for word as per original order -

Name of Steno : M.M.Pimpale

Name of Court : Shri. U.B.Pethe, Jt.C.J.J.D. &
J.M.F.C., Murtizapur.

Date : 16.01.2020

Signed by P.O. on : 17.01.2020

Uploaded on : 17.01.2020

R.C.S. No. 46/2012
Order below Ex.60

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Sachin vs. MIDC+1
CNR No.MHAK09-000274-2012