

MHAU050019242014



RCS No.388/2014

Mathurabai Kopare and others.

Vs.

Babasaheb Tribhuvan and others.

: ORDER BELOW EXH.74 :

Defendant moved this application to stay proceeding in RCS No.388/2014 for relief of declaration and perpetual injunction of this suit until final decision of second appeal No.145/2023.

2. According to defendant, RCS No.330/2009 filed by them against present plaintiff was decreed. Plaintiff challenged said judgment and order in RCA No.35/2013. The appeal was dismissed. Plaintiff challenged the same before Hon'ble High Court of Judicature at Bombay Bench at Aurangabad by filling second appeal No.145/2023 and same is pending. According to defendant, Hon'ble High Court ordered to maintain status-quo therein. Hence, it is necessary to stay proceeding of this suit till final decision of Second Appeal No.145/2023. Hence, this application. Defendant prayed to allow the application.

3. Plaintiff filed say and strongly objected the application. According to plaintiff, issues involved in both suits are different. Defendant filed this false application just to protract the trial. Application is not maintainable. It is prayed to reject the application.

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4. Perused application and say. Heard both sides. Perused record.

5. Defendant prayed to stay the proceeding of this suit on ground that Hon'ble High Court has passed status-quo order in Second Appeal No.145/2023 and suit property involved in both proceedings is one and same.

6. It is pertinent to note that, the application is silent on the point under which provision of law plaintiff is seeking relief of stay as prayed. Furthermore, defendant failed to satisfy any ground under Section 10 or 11 of Civil Procedure Code to stay this suit. Ground for which defendant prayed to stay this suit is not tenable in law. The present application is misconceived one and deserves to be rejected. Hence, in the interest of justice, I pass following order :-

ORDER

1. Application at **Exh.74** is rejected.

Sd/-

Date :02.05.2024.
Vaijapur.

(Smt. V. R. Kulkarni)
3rd Jt. Civil Judge J.D.,
Vaijapur.