

ORDER BELOW EXH.25 IN RCS NO. 35/16
(Bhimrao V/s. Vitthal)

This is an application u/sec. 10 of Code of Civil Procedure.

2. The defendant submitted that he has filed R.C.S.No.478/14 against one Draupadabai Vitthal Mulke which is pending before C.J.J.D.,Ahmedpur. The claim and suit property are the same in present suit and the suit filed by Vitthal Mulke. The suit filed by the Vitthal Mulke is the old one and the present suit is filed after the filing of old suit. Therefore, they prayed the present suit be stayed till the disposal of RCS No.478/14.

3. The plaintiff filed his say at Exh.27 strongly objected to the application and submitted the fact in issue and the suit property are different one. The parties of the present suit and the another suit are also different one. Therefore, the provision of Section 10 of the Code of Civil Procedure is not applicable to the present suit. The issue involved in both suit are directly and substantially not in issue. Hence, they prayed to reject the application.

4. Perused application, say. Heard both the side. It shows that the R.C.S.No.478/14 is filed by this defendant against Draupadabai Vitthal Mulke for declaration and ownership of the same suit property. The Draupadabai is alleged to be a wife of defendant no.1. The previous suit is filed by this defendant against the Draupadabai and the present suit is filed by Bhimrao Gursude which is alleged to be legal representative of Draupadabai. The claim in the both suit are one and the same as well as the suit properties also one and the same. The suit filed before C.J.J.D.,Ahmedpur is old one and the present suit is filed later on. Therefore, to avoid the multiplicity of the proceeding and for proper adjudication, it is to be proper to stay the suit filed later on. Hence, I find substance in the application of defendant. The application is liable to be allowed.

ORDER

The present suit is stayed u/sec.10
of C.P.C. till the final decision of
R.C.S.No.478/14 pending before
C.J.J.D.,Ahmedpur.

Date:03/11/2017. (Jaydeo Y.Ghule)
Ahmedpur. Civil Judge,S.D.Ahmedpur

