

Regular Civil Suit No.4/2018

Dattu Khatale

Vs.

Bhagwan Khatale & ors.

MHNS230000942018

**ORDER BELOW EXH-55**

(Passed on 15/11/2025)

Defendant no. 1 has filed present application under sec. 10 of Civil Procedure Code for stay of this suit during the pendency of RCS no. 90/2013.

02. Plaintiff has filed say at Exh. 57. Perused the application and say and record of both cases. Heard both Ld. Advocates.

03. Defendant no. 1 has alleged that, he has filed RCS no. 90/2013 on 24/06/2013 in the present court for partition, separate possession and declaration. As the name of present plaintiff is include in revenue records of the suit property, defendant no. 1 has filed application exh. 63 in RCS no. 90/2013 for adding present plaintiff as defendant no.8 therein and for amendment in the pleadings. As parties and suit properties are same in the both case and this suit is filed in the year 2018, defendant no. 1 has prayed for stay of this suit as per sec. 10 of CPC till disposal of RCS no. 90/2013.

04. Plaintiff has contended that in spite of disclosing the non-joinder of necessary parties and non-joinder of suit properties in the written statement by other defendants, defendant no. 1 has failed to do the needful in RCS no. 90/2013. After almost 10 years defendant no. 1 has filed application exh. 63 in RCS no. 90/2013 with intention to prolong the proceeding. Hence, plaintiff has prayed for rejection of this application.

05. Admittedly, RCS no. 90/2013 is pending in this court only.

Application exh. 63 is allowed and plaintiff therein i.e. defendant no. 1 in the present suit has been granted permission to add present plaintiff as defendant no.8 and to amend the pleadings for including alleged ancestral properties in the suit properties.

06. I have perused the record of both cases. Both suits are for partition, separate possession and declaration. The suit properties and parties in both suits are same. This court has jurisdiction to try and decide both the suits. Hence, it is just and proper to stay the present suit as RCS no. 90/2013 is previously instituted in which the issue of partition of the same suit properties is directly and substantially in issue between same parties. Thus, the following order is passed.

ORDER

1. Application is allowed.
2. The present suit is stayed as per sec. 10 of CPC as RCS no. 90/2013 is pending.

Sign/-

(M. D. Nanaware)

Jt.Civil Judge, Sr.Dn,Igatpuri.

Date:-15/11/2025