


CNR No.MHPU130012282024	Reg. Civil Suit No.218 of 2024
	Krushna Dagadu Budhe Versus. Balu Shivram Budhe & Ors.

**ORDER BELOW EXH.32.**  
( Date : 30.07.2025)

Present application is filed by defendant nos.1, 10 and 11 for dismissal of suit under Section 11 of the Code of Civil Procedure. The plaintiff resisted the application by filing say.

2] It has been contended on behalf of defendants that, the present suit is filed for perpetual injunction on the basis of possession. The plaintiff admits that, defendant nos.2 and 3 sold property to defendant nos.1 and 11 on 27.07.2012. When the sale-deed registered at Sub Register Office, Purandar vide document no.4179/2012, plaintiff was present in the office. The plaintiff after obtaining legal advice, time to time filed applications against defendant nos.1 and 11. Defendant no.1 has filed criminal complaint against defendant nos.2 and 3 and his sisters sold property mentioned in the document to Dubare. The plaintiff is fully aware that Spl.C.S. No.111/2023 is pending in the Court of Civil Judge, Senior Division, Pune in respect of document executed by defendant nos.2 and 3 in favour of defendant nos.1 and 11. The present suit and Spl.C.S. No. 111/2023 are in respect of same property. The present plaintiff has to appear in Spl.C.S. No.111/2023 and file his written statement. It would not be proper to conduct the trial of present suit while pending the Spl.C.S. No.111/2023. Hence, prayed for dismissal of the suit.

3] On the other hand, plaintiff filed his say at Exh.40 and

resisted the application. According to plaintiff, the application is false one and not in accordance with legal provisions. Defendants have not taken into consideration that appeal was pending before Hon'ble District Court, Pune till 2022. The present application is filed with intent to harass the plaintiff and prolong the hearing of Exh.5. The defendants are required to prove that Spl.C.S. No.111/2023 is pending before Civil Judge, Senior Division, Pune. Even if the Spl.C.S. No. 111/2023 is pending in the Court, the reliefs claimed in present suit and that suit are different. There is no bar to the present suit due to pendency of Spl.C.S. No.111/2023. Hence, prayed to reject the application.

4] Perused the application, say and plaint. The defendants have filed this application under Section 11 of the Code of Civil Procedure. Section 11 of the Code of Civil Procedure, deals with the principle of res-judicata, which prevents a court from trying a suit or issue that has already been decided in a previous suit between the same parties. Essentially, it prevents re-litigation of the same matter, ensuring finality in legal proceedings. The Section 11 embodies that once a matter is finally decided by competent Court no party can be permitted to reopen it in a subsequent litigation. It serves to prevent multiplicity of proceeding and to protect parties from being vexed twice for the same cause. To apply the principle of res-judicata the matter in the subsequent suit must be directly and substantially same in the former suit. The former suit must be between the same parties or between parties under whom they are any of them claim or litigating under the same title. The parties must be litigating under the same title in both former and subsequent suit. The Court which has decided the former suit must have had jurisdiction to try the

subsequent suit or the suit in which the issue has been raised and lastly the matter in issue must have been heard and finally decided by earlier Court.

5] According to defendants Spl.C.S. No.111/2023 is pending in the Court of Civil Judge, Senior Division, Pune in respect of same property. The present plaintiff has to apply for inclusion of party in that suit and can file written statement. The defendants claiming dismissal of present suit on the ground of pendency of Spl.C.S. No.111/2023 under Section 11 of the CPC. However, considering the legal aspect discussed above pendency of another suit in another Court is not a good ground for dismissal of subsequent suit. There is no material on record to show that the issue raised in present suit was directly and substantially same in Spl.C.S. No.111/2023 and has been decided between the same parties. Therefore, pendency of another suit is not ground for dismissal of the present suit. The plea taken by the defendants not comes within the purview of Section 11 of the CPC. The authority cited by the defendants is not applicable to the present case. Therefore, the present application is devoid of merit and not tenable in the eyes of law. Hence, liable to be rejected. Therefore, I proceed to pass following order :

**ORDER**

The application at Exh.32 is rejected.

Date : 30/07/2025.  
Place : Saswad.

[ **Tukaram P. Mote** ]  
Jt. Civil Judge, Junior Division,  
Saswad, Dist. Pune.

**CERTIFICATE**

I affirm that, the contents of this P.D.F file of order are same as per the original order.

Name of Stenographer	:: Santosh K. Panchal, Stenographer (Grade - III),
Name of the Court	:: <b>Shri. T. P. Mote,</b> Jt. C.J.J.D. & J.M.F.C., Saswad, Dist. Pune
Date of Order	:: 30.07.2025
Order signed by P.O. on	:: 30.07.2025
Order uploaded on	:: 01.08.2025