

R.C.S. 20/2018**Order below Exh. 12**

The present application is filed by the defendant for framing of preliminary issue. Plaintiff given say on application itself and taken strong objection to this application.

2. It is averted in the application that the suit is filed for specific relief as per Section 6 of the Specific Relief Act. The plaintiff also filed suit bearing R.C.S. no. 25/2018 under the same Act. Said suit is pending in the Court of C.J.J. D. and J.M.F.C. In both suits plaintiffs, defendant and suit properties are one and same. The plaintiff is taking undue advantage of the provisions of law. It is not legal to try and decide both the suits by the different Courts. Hence defendant prayed to frame following preliminary issue and to try both the suits jointly.

Preliminary Issue – Why the suit bearing no. 20/2018 and 25/2018 could not try jointly ?

3. The Ld. Advocate for the plaintiff filed say and contended that the application is false and illegal. This suit is filed under Section 6 of S.R. Act and the suit bearing no. 25/2018 is filed for declaration and injunction. Nature of both the suits are different. There is no provision to frame such kind of preliminary issue. As per Section 24 of C.P.C. it is necessary that defendant shall approach to Hon'ble District Court. The plaintiff have no objection to such procedure.

4. Ld. Advocate for defendant argued that in interest of justice it is necessary that both the suits should be tried by one Court. To avoid

further complications he prayed to frame preliminary issue.

5. On the other hand Ld. Advocate for plaintiff argued that there is no provision to frame such kind of preliminary issue. Hence he prayed to reject the application.

6. Considering submissions, documents on record it seems that, to suits relating to same subject matter and between same parties are pending in two different Courts. Though it is necessary that both the suits needs to be tried and decided by one Court, but this Court have no jurisdiction to transfer the suit in one Court. Moreover there is no provision to frame such kind of preliminary issue. The defendant have every right to approach appropriate forum for the relief prayed in this application. The application is devoid of merits, needs to be rejected. Hence I pass following Order -

ORDER

The application is rejected.

Place: Khalapur
Date : 10.06.2019

(Vishal Shravan Dhondage)
Jt. Civil Judge, J.D., Khalapur