

Order Below Exh. 12 in R.C.S. no. 26/2020

(CNR No. MHRT080001962020)

By present application, the defendant has prayed to stay proceeding of the present suit till completion of cross-examination of the informant in Regular Criminal Case 16/2019 pending before this Court.

2. It is contended that, in respect of the same subject as to which present suit is instituted, a criminal case bearing RCC No. 16/2019 is also filed against the defendant. If the proceeding of the present suit is not stayed, defence of the defendant which he has to take in that criminal case would be disclosed. It would be dangerous to the defendant. Therefore, the defendant prays for staying proceeding of the present suit.

3. The plaintiff bank has filed reply below Exh. 15 and opposed the application. It is stated that, proceeding of RCC No. 16/2019 is in respect of FIR lodged for offences punishable under sections 420, 465, 467, 468, 471 r.w. section 34 of IPC. Both proceedings i.e. proceeding of the present suit and that criminal case are different. As such, proceeding of present suit cannot stayed.

4. Perused the record. Heard both sides.

5. Learned advocate for the defendant has submitted that, present defendant is accused in RCC No. 16/2019. If he has filed his written statement and conducted the suit further, his defence would be disclosed. This would adversely affect his defence in RCC No. 16/2019. Thus, in exercise of inherent powers under section 151 of the Code of Civil Procedure, 1908, present application deserves to be allowed.

6. Pertinently, in exercise of inherent powers of Civil Court, an order can be passed under section 151 of CPC to secure ends of justice and to prevent abuse of process of law. Contest to a Civil Suit and defending a criminal proceeding are different aspects. Only because a criminal proceeding arising out of same subject matter is also pending against the defendant, proceeding of a Civil Suit cannot be stayed. It is

settled law that, a civil and a criminal proceeding in respect of same transaction may go on hand in hand. Unless, it is substantially made out as to how the defendant would be prejudiced in either of the proceedings, staying proceeding of a Civil Suit would not be just and proper. By the present application, the defendant has not in any manner made out as to how he would be prejudiced if the proceeding of the present suit is not stayed. A suit cannot be stayed just because it is so prayed for. In light of all these aspects, application is liable to be rejected. Hence, following order-

ORDER

Application is hereby rejected.

Date : 29.07.2022

(B. D. Tare)
Civil Judge (J.D.), Deorukh

- : C E R T I F I C A T E : -

Judgment/order in (Order below Exh.12 in R.C.S No.26/2020)

I affirm that the contents of this Pdf file order are same words as per original order.

Name of Stenographer :- S. S. Thaware (Jr. Clerk)

Court Name :- The Court of Civil Judge (J.D.) &
Judicial Magistrate F.C., Deorukh

Date of decision :- 29/07/2022

Order signed by PO. on :- 29/07/2022

Order uploaded on :- 30/07/2022