



Regular Civil Suit Number 290/2023
CNR Number MHSO-07-000350-2023

1. Limbunath Anna Kathavate Plaintiff

Versus

1. Namdeo Dasharath Shinde Defendants

ORDER BELOW EXHIBIT 38

1. The defendant number 1 to 6 have moved the application vide exhibit 38 for stay of suit as per section 10 of Code of Civil Procedure. The defendant 1 to 6 have stated that, these defendants have instituted suit bearing regular civil suit number 455/2017. The suit properties as well as parties are same in present suit and in regular civil suit number 455/2017. The land bearing block number 725 of village- Palashi, is suit property in both suits. The prayer in both suits are also similar. Hence, it will be appropriate to stay this suit.

2. The plaintiff has filed say and raised strong objection. It is stated that, application is false and vexatious. Reasons are not sufficient. The pleadings in RCS Number 290/2023 and RCS Number 455/2017 are totally different. The nature, subject matter and parties of both suits are different. Therefore, section 10 of Code of Civil Procedure is not applicable. The subject matter of both suits is different. Hence, application vide exhibit 38 is to be rejected.

3. I have perused application vide exhibit 38 and say of plaintiff. I have heard both sides at length. The following points arise for my determination.

Serial number	Points	Findings
1	Whether suit can be stayed as per section 10 of Code of Civil Procedure ?	In the negative
2	What is order ?	The application is rejected.

Reasons

4. The present suit is for perpetual injunction. The plaintiff has stated that, he is owner and possessor of suit property. The defendants are creating obstruction to peaceful possession of plaintiff. The defendant 1 to 6 have stated that, these defendants have instituted suit being regular civil suit number 455/2017. The suit properties as well as parties are same in present suit and in regular civil suit number 455/2017. The land bearing block number 725 of village- Palashi, is suit property in both suits. The prayer in both suits are also similar. There is multiplicity of proceeding which may result into two different judgments. It may cause harm to both parties. Hence, it will be appropriate to stay present suit as per section 10 of Code of Civil Procedure.

5. Section 10 of Code of Civil Procedure is reproduced as follows.

Stay of suit- No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a

previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in [India] having jurisdiction to grant the relief claimed, or in any Court beyond the limits of [India] established or continued by [the Central Government] and having like jurisdiction, or before [the Supreme Court].

6. It reveals on perusal of exhibit 1 of RCS number 290/2023 that, this is suit for injunction. The plaintiff has stated that, he has become owner of suit property. The defendants are obstructing his peaceful possession over suit property. Hence, the defendants be restrained by way of perpetual injunction for disturbing his peaceful possession. According to defendant number 1 to 6, they have filed RCS number 455/2017 for possession in which present plaintiff is also party. The land bearing block number 725 of village- Palashi is included as suit property in both the suits. The defendant number 1 to 6 have filed xerox copy of Regular Civil Suit number 455/2017 in the court vide list exhibit 28/1. Neither defendant number 1 to 6, nor plaintiff have filed certified copy of exhibit 1 of Regular Civil Suit number 455/2017 in the court. There is nothing on record about Regular Civil Suit number 455/2017 for perusal of court. Therefore it has become very difficult to ascertain whether both the suits are pending between the same parties and matter in issue is also directly and substantially in issue in both suits or not. Hence, section 10 of Code of Civil Procedure is not applicable in these circumstances . Therefore, present suit cannot be stayed. In the result, the following order is passed.

ORDER

The application vide exhibit 38 is rejected.

Pandharpur.
Date – 02-01-2026.

Smt. K. A. Katkar
3rd Joint C. J. J. D, Pandharpur.

: CERTIFICATE :

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

Case No.	:	RCS 290/2023
Name of Stenographer	:	S.P. Doke
Court Name	:	Smt. K. A. Katkar, Joint Civil Judge Junior Division Shrigonda, Dist-Ahmednagar
Date of Decision	:	02-01-2026
Order signed by P.O. on	:	02-01-2026
Order uploaded on	:	02-01-2026