

MHWR010016832025



In the Court of District Judge-1, Wardha.

Regular Civil Appeal No.82/2025

Rajesh S/o. Homdev Khairkar	..	Appellant
..V/s..		
Vijay Ramchandra Maheshgauri and others	..	Respondents

Order below Exh.13
(Passed on 12th of August, 2026)

Appellant/original defendant No.1 filed this application for grant of stay to order dated 20.11.2025 below Exh.82 passed by Civil Judge, Senior Division, Wardha in Regular Civil Suit No.179/2021. By said order, application filed by the defendants for stay of suit under Section 10 of the Code of Civil Procedure was rejected.

2] Respondent No.1 filed the say and submitted that the application is not tenable before this Court.

3] Perused the application and record.

4] It is to be noted that the appellant/original defendant No.1 filed this appeal against order dated 17.07.2025 below Exh.50 in Regular Civil Suit No.179/2021 whereby the learned Trial Court rejected his application for rejection of plaint.

5] Main contention of learned Advocate for the appellant is that the suit is barred by limitation and this issue directly and substantially affects the suit proceeding. Hence, defendants had filed application (Exh.82) under Section 10 of the Code of Civil Procedure to stay the suit till disposal of this appeal but the learned Trial Court rejected the application. Hence, he prayed for allowing the application.

6] Advocate for the appellant filed on record copy of issues and additional issues. It appears that considering the defence of defendants, the learned Trial Court has already framed Issue No.9 on the point of limitation and the matter is posted for evidence of the parties. Further, Section 10 of C.P.C. is not applicable to the present case as no two suits are pending before the learned Trial Court. Further, as per Order 14, Rule 2 of the Code of Civil Procedure, the Court shall pronounce judgment on all issues notwithstanding that the case may be disposed of on a preliminary issue. So also, Section 9A of C.P.C. pertaining to framing of preliminary issue, which was inserted by Maharashtra Act 65 of 1977 is deleted vide Maharashtra Act 61 of 2018 with effect from 27.06.2018. Under the circumstances, the application is not tenable and that too in the appeal. In the result, following order is passed.

Order

The application (Exh.13) is rejected.

Dated: 12.08.2026.

(S.T. Soor)
District Judge-1,
Wardha.

CERTIFICATE

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

(Madhav A. Chaudhari)
Stenographer

