

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 10253 OF 2015

Bhaktiram s/o Vishram Rathod	..	Petitioner
vs		
Amrutlal s/o Vishram Rathod (died)		
through his Legal heirs:-	..	Respondents

Mr. Amit A. Mukhedkar, Advocate for petitioner
Mr. D. S. Bharuka, Advocate for respondents no. 3 and
General Power of Attorney of respondents no.1A to 1H

CORAM : SUNIL P. DESHMUKH, J.
12TH OCTOBER, 2015

ORDER:

1. Heard learned counsel for the parties.
2. This petition has been filed by original defendant challenging order dated 12-08-2015 passed by Joint Civil Judge, Senior Division, Parbhani, on application Exhibit-89 in special civil suit no. 28 of 2012 whereunder request appears to have been made by defendant for appointment of commissioner for assessment of valuation of the suit property which is contended to be more than two crore rupees on the date of filing of suit whereas, the suit is valued at rupees twenty lakh.

3. Learned counsel for petitioner refers to valuation certificate issued by Assistant Registrar, Parbhani, further contending that there is another certificate issued by authority of same peer certifying that the property is valued around rupees twenty six lakhs.

4. After hearing learned counsel, it transpires that although objection to the valuation had been referred to in the pleadings by defendant in paragraph no. 17 of written statement, no issue with regard to the same had been framed. However, subsequently, during the course of evidence an issue with regard to valuation has been framed. Since it is being contended by learned counsel for petitioner, exhibit-89 has been rejected and evidence of the defendant is also over, in such a case, there is no opportunity to defendant to give evidence with regard to valuation. It is further being referred to by him that the matter is posted for final arguments.

5. Having regard to aforesaid position, I deem it expedient that an opportunity be let to the parties to lead evidence with regard to issue of valuation of suit.

6. In view of the same, impugned order on Exhibit-89 stands accordingly modified. The parties are at liberty to adduce evidence with regard to valuation of the suit property. It is

expected that the parties would do so in right earnest preferably within a period of six weeks from the date of receipt of writ of this order by the trial court.

7. With aforesaid, writ petition stands disposed of.

SUNIL P. DESHMUKH, J.

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