

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.491 OF 2010

**Pandurang Aaba Sidd and ors. : Petitioners
versus
Sou. Sonabai Yashwant Salgar and ors. : Respondents.**

**ALONG WITH
CIVIL APPLICATION NO.104 of 2015
IN
CIVIL REVISION APPLICATION NO.491 OF 2010**

Sou Sonabai Yeshwant Salgar : Applicant.

In the matter between

**Pandurang Aaba Sidd and ors. : Petitioners
versus
Sou. Sonabai Yeshwant Salgar and ors. : Respondents.**

Mr. Rahul Walvekar for the original Applicants in Civil Revision Application No.491 of 2010.

Mr. Sandeep S Koregave for the Respondents in the Civil Revision Application No.491 of 2010 and for the Applicant in the Civil Application No.204 of 2015.

**CORAM : R. M. SAVANT, J.
DATE : 25th February 2015**

P.C.

1 The above Civil Application has been filed for vacating the ad-interim order which is operating in the above Civil Revision Application since 7/2/2011 when the above Civil Revision Application came to be admitted. The interim order is by way of prayer clause (c). In view of the interim order which is in operation the proceedings before the Trial Court have been stayed.

2 The learned counsel for the parties are agreeable for the above Civil Revision Application itself be taken up for hearing and hence by consent of the learned counsel for the parties the above Civil Revision Application itself is taken up for hearing and is accordingly heard.

3 The order impugned in the above Civil Revision Application is the order dated 5/4/2010 by which order the Trial Court has rejected the application filed by the Defendants invoking Section 9A of the Code of Civil Procedure questioning the valuation of the suit. The Trial Court has observed that total valuation of the suit comes to less than Rs.One lac and therefore the said Court has jurisdiction to entertain the suit.

4 A perusal of the impugned order discloses as to on what basis the Trial Court has arrived at a conclusion that the valuation in the suit comes to less than Rs.One lac. It is trite that once an objection is raised as regards the valuation, one of the options open to the Court is to conduct an inquiry under Section 8 of the Bombay Court Fees Act, 1959. However, without formally conducting the said inquiry, the Trial Court seems to have followed a rough and ready method and has come to a conclusion that the valuation of the suit is less than Rs.One lac and therefore it would have jurisdiction to entertain the suit. One of the grounds on which the impugned order is assailed is the

ground that an inquiry under Section 8 of the Bombay Court Fees Act, 1959 has not been conducted by the Trial Court.

5 The learned counsel appearing for the Respondent No.1 original Plaintiff states that he has no objection if the said course of action is followed. He further states that on such inquiry if the Trial Court comes to a conclusion that the suit has been under-valued the Respondent No.1-original Plaintiff is ready to correct the valuation and pay the additional court fees, if any.

6 In my view, the interest of justice would be served if the impugned order dated 5/4/2010 is quashed and set aside and the following directions are issued :-

[1] The Trial Court to conduct an inquiry under Section 8 of the Bombay Court Fees Act, 1959 as regards valuation of the suit.

[2] On such inquiry, if the suit is found to be under-valued, the Trial Court would give an opportunity to the Plaintiff to correct the valuation and pay the additional court fees, if any by fixing a time frame for the same.

[3] If on such inquiry, it is found that the suit would not lie before the

same Court, then the plaint would be returned to the Plaintiff to be filed before the appropriate Court.

[4] With the aforesaid directions the above Civil Revision Application is disposed of. The interim order stands vacated.

[5] In view of the disposal of the above Civil Revision Application, Civil Application No.104 of 2015 filed by the Applicant-original Respondent No.1 for vacating the ad-interim order, does not survive and the same to accordingly stand disposed of as such.

[R.M.SAVANT, J]