

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2640 OF 2014

Ashok B. Bhosale and ors. .. Petitioners
vs.
Vijay B. Shetty .. Respondent

Mr. Lahu S. Gaikwad for the Petitioners.

CORAM : M. S. SONAK, J.
DATE : 5 May, 2015.

P.C. :-

1] This petition challenges the order dated 5 December 2013, by which the petitioners, who are defendants have been directed to value the claim for possession raised by them in their counterclaim, for the purposes of suit valuation and court fees as per Section 6(v) of the Bombay Court Fees Act, 1949 and on the said basis to pay requisite court fees thereon, if the court fees already paid, are found to be insufficient.

2] The learned counsel for the petitioners submits that on previous occasion, similar objection was raised by the plaintiff, but ultimately, a pursis was filed and such objection was in effect, given up. Therefore, the learned counsel for the petitioners submits that there was no question of such issue being raised once again and any directions issued to the petitioners to value the suit and pay court fees as per Section 6(V) of the said Act.

3] In my judgment, such contention is untenable. The parties to a suit, by means of a pursis, cannot, bind a Civil Court in the matter of appropriate valuation of the suit and payment of court fees.

Independent of any agreement between the parties, it is a duty of the Civil Court to enquire into the issue of valuation and payment of court fees. Therefore, merely on the ground that there was some pursis filed between the parties, it cannot be said that the impugned order suffers from any jurisdictional error.

4] Accordingly, no case is made out to interfere with the impugned order. This petition is dismissed.

5] The impugned order was made on 5 December 2013 and the said order had granted one month time to the petitioner to revalue the suit and pay deficit court fees. In the interest of justice, however, such period is extended upto 30 June 2015. If by the said date, counterclaim is not revalued and deficit fees are not paid, then as directed by the impugned order, counterclaim shall stand rejected.

6] All concerned to act upon an authenticated copy of this order.

(M. S. SONAK, J.)

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