

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

WRIT PETITION NO.9934 OF 2015

Vicky Anthony Fernandes : Petitioner.
Versus
Miss Pradnya Anand Jadhav and anr. : Respondents.

Mr. S S Joshi for the Petitioner.
Mr. R B Laxmipalli for the Respondent No.1.

CORAM : R. M. SAVANT, J.
DATE : 15th October 2015

P.C.

1 The writ jurisdiction of this court is invoked against the order dated 31/07/2015 passed by the learned Joint Civil Judge, Junior Division, Thane by which order the application filed by the Defendant No.1 under Order VII Rule 11 of the Code of Civil Procedure came to be partly allowed and the Plaintiff was directed to re-value the suit and accordingly pay the court fee.

2 The said revaluation was directed to be done having regard to the prayers in the suit which are in respect of the declaration of ownership and by which prayers the Petitioner-Plaintiff is impliedly seeking the relief of possession of the suit premises which are admittedly in part occupation of the Respondent No.1 herein i.e. the Defendant No.1. The Trial Court was therefore of the view that the suit would have to be valued in terms of Section 6(iv)(d) of the Maharashtra Court Fees Act and that the fixed court fees under Section

6(iv)(j) of the said Act are not applicable.

3 In my view, having perused the prayers in the suit and having regard to the circumstances in which Section 6(iv)(d) applies, the order passed by the Trial Court cannot be found fault with. No case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed. Time to correct the valuation is however extended by a period of 3 weeks from date.

[R.M.SAVANT, J]