

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST.) NO. 31250 OF 2014

M/s. Real Properties and ors. .. Petitioners
vs.
Mr. Sanjay S. Gaikwad and ors. .. Respondents

Mr. Sandesh Patil i/b Mr. Pavan S. Patil for the Petitioners.
Mr. Chaitanya Nikte for Respondent Nos.1 to 8.

CORAM : M. S. SONAK, J.
DATE : 19 MARCH, 2015

P.C. :-

1] This petition is directed against the order dated 26 September 2014 made by the 4th Additional Judge, Small Causes Court and Civil Judge, Senior Division, Pune (impugned order).

2] There is no dispute that valuation of the plaint in the present case had to be undertaken in terms of Section 6(iv)(ha) of the Maharashtra Court Fees Act. The contention of the petitioners, at least is reflected in the impugned order was that such valuation had to be based upon the market value of the property and not the value of the property, for avoidance of which the declaration was applied for. In support of such contention, sustenance was sought to be drawn from the report of Nazir, who, had reported that the market value of the property would be Rs.1,77,62,500/-.

3] The learned Civil Judge, has rightly rejected the aforesaid contentions of the petitioners, by relying upon the decision of this Court in case of *Sau. Asha Sopan Maithane vs. Ramkrushna Punjaji Wanare and ors.*¹, The relevant paragraph of the said decision being paragraph 16, reads thus:

“16. In present matter, as already noticed, the provisions of Section 6 make a difference between market value and value of the property. The provisions of Section 6(v) of the Act specifically state that when suit is for possession of house and garden, market value thereof is the value for the purposes of court fee. Legislature has in Section 6(iv)(ha) not used the word “market value”. The one half of ad valorem fee leviable thereunder is on the value of the property & obviously the value has to be looked into the subject document. Incorporation of Section 6(v) in Section 6(iv)(d) of Act and not in this Section 6(iv)(ha) is deliberate . If objection of the defendant is to be upheld, such reference to it was essential to attract payment of court fee as per market value if such document or contract relates to a house or garden. Its non incorporation brings forth the distinction envisaged by the legislature in assessment of court fees in suits regulated by Section 6(iv)(d) & Section 6(iv) (ha) of Act. The sale deed in present matter in relation to which declaration is sought by plaintiff is for Rs.4,60,000/-. It is, therefore, apparent that he is seeking declaration in relation to a document which is valued at Rs.4,60,000/-. The valuation as undertaken in plaint for said purpose of Section 6(iv)(ha), therefore, is not erroneous.”

4] Learned counsel for the petitioners, however, contended that even for the purposes of determining 'valuation of the property' under Section 6(iv)(ha) of the Maharashtra Court Fees Act, the reference is essentially required to be made to the Ready Reckoner, as the values

¹ Writ Petition No.4870 of 2009 decided on 29 July 2010

stated therein, represent the value of the property, though they may not essentially represent the market value of the property.

5] It is not possible to accept such contention. In the first place, such was not the contention raised before the learned Civil Judge when the impugned order came to be made. Even otherwise, this Court in case of *Asha Maithane (supra)*, in precise context of Section 6(iv)(ha) of the said Act, favoured the valuation of the suit, on the basis of the value of the subject matter of the property as reflected in the document, which is sought to be avoided by means of a declaration.

6] Accordingly, there is no reason to entertain the present petition. The petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)