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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.363 OF 2015

Bruckfield Constructions Pvt. Ltd. (formerly  
known as 'M/s.Anagad Reality Pvt. Ltd.) ..Petitioner.

V/s.

Navnath Dynoba Masal & Ors. ..Respondents.

Mr. Nikhil Wadikar i/b. Nandu Pawar for the petitioner.  
None for the respondents.

**CORAM : A.S.OKA AND  
A.K. MENON, JJ.**

**DATED : 19TH JANUARY, 2015**

**P.C. :-**

1. Heard learned counsel appearing for the petitioner. The petitioner is the defendant No.19 in a Civil Suit filed by the first to fourth respondents. The Court of Civil Judge, (Senior Division) is the principal Court of Civil jurisdiction at Pune. The suit was instituted in the Court of Civil Judge, (Senior Division) Pune on 3<sup>rd</sup> February 2011. It was administratively transferred to the Court of the 14<sup>th</sup> Joint Civil Judge (Junior Division), Pune considering the valuation made in the plaint for the court fees and jurisdiction. An order was passed by the learned 14<sup>th</sup> Joint Civil Judge (Junior Division) directing the first to fourth respondent to correctly value the suit in accordance with section 8 of the Bombay Court Fees Act, 1959. After the said order, the concerned respondents (plaintiffs) valued the suit at

Rs.14,746,819/- and paid the deficit court fees.

2. Learned counsel appearing for the petitioner relies upon the order dated 18<sup>th</sup> September, 2014 passed by the learned 14<sup>th</sup> Joint Civil Judge (Junior Division) Pune by which the amended plaint was ordered to be returned for presentation to appropriate Court as only the Court of Civil Judge (Senior Division) could have entertained the suit.

3. The grievance of the petitioner is that instead of formally returning the plaint to the original plaintiffs, the suit was administratively transferred to the Court of Civil Judge (Senior Division) Pune and was re-numbered.

4. From Exhibit-A, it appears that the suit was instituted in the Court of Civil Judge (Senior Division) Pune on 3<sup>rd</sup> February 2011 which was assigned to a Court of Joint Civil Judge (Senior Division) Pune vide the order dated 4<sup>th</sup> February, 2011 by the learned Civil Judge (Senior Division), Pune as initially it was valued at Rs.2,966/- (see page 43). After the valuation of the suit for the purpose of jurisdiction was enhanced beyond the pecuniary jurisdiction of a Court of Civil Judge (Junior Division), the suit could have been heard only by the Court of Civil Judge (Senior Division) in which Court the suit was originally instituted. Therefore, there was no question of returning the plaint

inasmuch as, the suit was properly instituted in the Court having jurisdiction to entertain the same even after the amendment of the valuation. In terms of paragraph 233 of the Civil Manual, the suit has been administratively transferred to the Court of the Civil Judge (Senior Division).

5. Therefore, we find no illegality in the action of the transfer of the suit instead of returning the same. A suit can be transferred only if it is not presented to the Court having no jurisdiction. In this case, it was filed in the Court having jurisdiction. There is no reason to interfere under Article 226 of the Constitution of India. The petition is rejected.

**(A.K.MENON, J.)**

**(A.S.OKA, J.)**