

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CIVIL REVISION APPLICATION NO.49 OF 2015
UJJWAL BHAJANSING NATHANI AND ANOTHERS
V/S

SAU. REKHA BAI W/O. VIJAY KUMAR NANDGIRWAR AND ANOTHER

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Shri A.C. Dharmadhikari, counsel for the Applicants.
Shri S/Shri Rohit Joshi, counsel for caveator NA No.1.

CORAM : A.P. BHANGALE, J.
DATE : JUNE 12, 2015.

1. Heard learned counsel for the parties.
2. This civil revision application is filed challenging order passed by the learned Joint Civil Judge Junior Division in Regular Civil Suit No.16 of 2015 whereby application Exhs.18 and 21 were rejected. The applications were for rejection of plaint under Order VII Rule 11(c) of the Code of Civil Procedure on the ground that the suit is not properly valued for the purposes of Court-Fees and jurisdiction.

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3. Learned counsel for the revision applicants submits that the plaintiff/respondent sought relief for declaration and perpetual injunction. It was prayed that by decree of declaration sale deed executed by defendant No.1 in favour of defendant Nos.2 and 3 on 9.3.2015 be declared as *null and void* and not binding upon the plaintiff and consequent permanent injunction was sought to prevent the defendants from obstructing and interfering with the possession of the plaintiff. Learned counsel for the revision applicants submits that it was obligatory upon the plaintiff to value the suit for both the reliefs of declaration as well as permanent injunction for the purposes of jurisdiction of the Court and for payment of Court-Fees. The plaintiff mentions valuation clause in paragraph No.10, thus :

“The plaintiff values her suit for the relief of declaration at Rs.1000/- and for permanent

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perpetual injunction at Rs.1000/-, both for the purpose of jurisdiction and court-fees with pleader fee. Accordingly, the plaintiff pays collectively court-fees of Rs.400/-.”

4. The valuation clause does not throw light as to how the suit is valued according to law for the purposes of jurisdiction of the Court as contemplated under the Suit Valuation Act read with The Maharashtra Suits Valuation (Determination of Value of Land for Jurisdictional Purposes) Rules, 1983. Section 2 thereof mentions as to how the subject matter of the suit is to be valued for the purposes of jurisdiction of the Court. Thus, it is obligatory upon the plaintiff to make a specific averment in the plaint as to how the suit is valued for the purposes of jurisdiction of the Court under the aforesaid enactments as well as for payment of Court-Fees under the Maharashtra Court-Fees Act.

5. My attention is invited to Section 6(iv) (h)(ha) of The Maharashtra Court-Fees Act in order to submit that in the suit pending before the trial Court was for declaration to avoid or challenging legality of the sale deed, properly was valued in the sum of consideration Rs.50,00,000/-.

6. Learned counsel for non-applicant No.1 submits that learned trial Judge made reference to the rulings in the cases of Chandrika ..vs.. Orbit Finances Pvt.Ltd. reported at 2011(1) Mh.L.J. 898 and Suhrid Singh @ Sardool Singh ..vs.. Ranbhir singh & others reported at 2010 AIR (SC) 2807. The defendants had also placed reliance upon the ruling in the case of Abdulsattar ..vs.. Vaibhav reported at 2012(2) Mh.L.J. 285.

7. Before discussion of these rulings cited

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supra, learned trial Judge ought to have perused the plaint in order to verify as to how the suit was valued for the purposes of Court-Fees and jurisdiction of the Court with reference to The Suits Valuation Act, 1887 as applicable in the State of Maharashtra with rules thereunder with the specific reference to the provisions of the Suits Valuation Act and also The Maharashtra Court-Fees Act. The vagueness in valuation clause of the plaint cannot be ignored and it is for the learned trial Judge to insist upon appropriate valuation of the suit not only for the purposes of jurisdiction of the Court but also for payment of appropriate Court-Fees payable by the plaintiff. In other words, the plaintiff cannot avoid his legal obligation to mention appropriate legal provisions upon which the plaintiff may rely upon to value the suit both for the purposes of jurisdiction of the Court and payment of Court-Fees. That being so, it is now obligatory upon the plaintiff to amend

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valuation clause in the plaint according to law so as to incorporate amendment in the valuation para of the plaint accordingly then to move the trial Court. Learned trial Judge shall consider the amended clause to satisfy himself as to whether valuation is properly made for the purposes of jurisdiction of the Court and payment of Court-Fees with reference to enactments referred to above and relevant provisions thereof.

8. That being so, the impugned order passed below application Exhs.18 and 21 for rejection of plaint is quashed and set aside. The plaintiff shall be at liberty to amend the plaint within a period of four weeks from the date of this order in the trial Court. If such amendment is made by the plaintiff to incorporate valuation clause in the plaint by making consequent amendments in the plaint including in the final prayers sought in the suit, the trial Court to

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proceed further according to law. The parties to appear before the trial Court on 27.7.2015. The learned trial Judge shall hear the parties after the amendment as permitted herein is incorporated by the plaintiff in respect of the valuation clause of the plaint.

9. Learned counsel for non-applicant No.1 submits that he will move the trial Court as early as possible so as to make necessary amendment in the plaint. After the plaint is amended in the trial Court as permitted herein, learned trial Judge to hear the parties and proceed further according to law.

10. The civil revision application is allowed and disposed of accordingly. Costs shall be costs in the cause.

JUDGE

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