

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

925 WRIT PETITION NO. 3582 OF 2014

VINODKUMAR PRABHULAL AGRAWAL AND ANOTHER
VERSUS
SARALABAI SANJAY PATIL AND OTHERS

Shri. Ajeet D. Kasliwal, Advocate, for petitioners.

Shri. V.B. Patil, Advocate, for respondents.

CORAM: T.V. NALAWADE, J.

DATE : 1st SEPTEMBER 2016

ORDER:

1) The petition is filed to challenge the order made by the learned Civil Judge, Junior Division, Parola, on Exhibit 19 in Regular Civil Suit No.87/2012. The petitioners, defendant Nos.5 and 6 had approached for giving direction to the plaintiffs to pay Court fees on Rs.38,92,500/-, the amount of consideration shown in the agreement between the defendants *inter se*. This application is rejected by the trial Court by giving reasons on the basis of the contents of the agreement itself.

2) This Court had an opportunity to go through the contents of the plaint. The plaintiffs have sought declaration that they have become owner due to adverse possession as they have been in possession for more than 60 years. Then the second relief in respect of which there is contention that court fees needs to be paid for the relief of declaration is that the agreement made by defendant Nos.1 to 4 in favour of defendant Nos.5 and 6 is not binding on the plaintiffs. This Court has no hesitation to observe that this relief is misconceived. If at all the plaintiffs get relief which is claimed in prayer clause (B) then everything will be over for the defendants. Further such relief is not expected in law because the plaintiffs are not the party to the said agreement. There was no question of calculation of any court fees as such relief cannot be given by the Civil Court.

3) Learned counsel for the petitioners placed reliance on a case reported as **2015(5) ALL MR 620 (Prism Reality Vs. Govind Yashwant Khalade)**. It is on the procedure of calculation of Court fees when relief of declaration is prayed. There is no dispute over the

proposition. The facts of the present matter are totally different. The writ petition is disposed of with the aforesaid observations.

Sd/-
(T.V. NALAWADE, J.)

rsl