

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

927 WRIT PETITION NO. 283 OF 2016

RAHUL VISHWANATH PATIL
VERSUS
SAHADEV GANPATRAO PATIL AND OTHERS

...
Advocate for Petitioner : Sonwane Mahesh R.
Advocate for Respondents 1 to 3 : Nagori Girish
...

CORAM : T.V. NALAWADE, J.
DATED : 5th October, 2016.

ORDER :

1. The petition is filed to challenge the order made by the learned Civil Judge, Junior Division, Jalgaon dated 16.11.2015 on Exh. 29 filed in Regular Civil Suit No. 216/2014. Heard both the sides.

2. Though initially the application was filed by defendant No. 3 for rejection of plaint, during arguments the Court realized that the matter involved the ascertainment of the value of the suit and the liability of the plaintiff to pay the court fees. The Court has held that in view of the nature of declaration which involves avoiding of the liability of amount recovered under the agreement, he needs to pay the court fees as provided under section 6 (iv) (ha) of the Bombay Court Fees Act. It appears that there is challenge also to the retirement

document and under the retirement document, amount of Rs. 82.52 lakh was shown to be paid to the plaintiff. But it is simply retirement and he wants declaration that there was no retirement. The plaintiff is not claiming any relief in respect of the amount of Rs. 82.52 lakh. He wants to avoid the liability in respect of amount of Rs. 62.51 lakh. In view of these circumstances, the court fees need to be paid on the amount of Rs. 62.51 lakh and for other relief in respect of ad-valorem court fee as provided under section 6 (iv) (j) of the Act will be payable. With these observations, the petition is disposed of.

[T.V. NALAWADE, J.]

SSC/