ingale

IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9353 OF 2014

Mrs.Pushpa Sanjay Salvitthal … Petitioner

Vs.

Mr.Ramdas Janardhan Basale
Dead through Legal Heirs
1. Smt. Salubai Ramdas Basale and others … Respondents

Mr.Prabhakar Jagdale, Advocate for the Petitioner.
Mr.V.S.Talkute, Advocate for Respondents.

CORAM : R.G.KETKAR, J.
DATE : 12th JANUARY, 2016

P.C. :

. Heard Mr.Prabhakar Jagdale, learned Counsel for the petitioner and Mr.V.S.Talkute, learned Counsel for the respondents. Rule. Mr.Talkute waives service. At the request and by consent of the parties, rule is made returnable forthwith and the Petition is taken up for final hearing.

2. By this Petition under Article 227 of the Constitution of India, original plaintiff has challenged the order dated 13/01/2014 passed by the learned Civil Judge, Senior Division, Pandharpur below Exhibit 80 in Special Civil Suit No. 105 of 2010. By that order, the learned trial Judge directed the petitioner – plaintiff to pay the deficit court fee of Rs.69,036/- as per report of the Nazir dated

16/12/2013.

3. Mr.Talkute submitted that the Suit is for final arguments and let the trial Court decide this aspect while deciding the Suit finally. He submits that respondents have no objection for setting aside the impugned order subject to clarifying that this aspect be considered while deciding the Suit finally.

4. In view thereof, by consent of the parties, the impugned order is set aside. While deciding the Suit, the learned trial Judge will consider in accordance with law whether requisite stamp duty is paid or not. Rule is made absolute in the aforesaid terms with no order as to costs.

5. All the parties including the learned trial Judge will act upon authenticated copy of this order.

(R.G.KETKAR, J.)