

FARAD CONTINUATION SHEET  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO.12849/2015

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| Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders | Court's or Judge's orders |
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Mr. S. V. Gavand for the petitioner

**CORAM : K. K. TATED, J.**  
**DATE : AUGUST 4, 2016**

**P.C.:**

1. Heard. By this petition under Article 227 of the Constitution of India the Petitioner defendant challenges the order dated 24.06.2014 passed by the Civil Judge, Senior Division Panvel below Exhibit- 20 in Special Civil Suit No. 29/1999 rejecting the application made by the defendant for direction to the plaintiff to pay additional court fees as per their claim in affidavit of evidence to the extent of Rs.18,33,00,000/-.

2. The learned counsel for the petitioner submits that in the present proceedings, initially the plaintiff filed suit for specific performance and in the alternative he claimed damages to the extent of Rs.20 lacs and/or market value of the suit property on the date of decree. He submits that at the time of filing the affidavit of evidence, the plaintiff claimed compensation of Rs.18,33,00,000/-. Hence, the defendant filed

the application below Exhibit- 70 for directing the plaintiff to pay additional court fees of Rs.18,33,00,000/-.

3. The learned counsel for the petitioner submits that the Trial Court erred in coming to the conclusion that it is not necessary for the plaintiff to pay court fees on the amount claimed by them in affidavit of evidence by way of compensation of Rs.18,33,00,000/-. Hence, the impugned order is liable to be set aside.

4. It is to be noted that initially the plaintiff claimed compensation of Rs.20 lacs and paid court fees on that amount. In the plaint the plaintiff has made a specific averment that the plaintiff may be granted enhanced compensation of suit property if on the date of passing decree the market price increases.

5. Considering these facts, there is no question of directing the plaintiff to pay court fees at present. If the Trial Court passes the decree for compensation over and above Rs.20 lacs, then only the plaintiff has to pay additional court fees. In view of these facts, I do not find any substance in the Writ Petition. Same stands rejected.

**JUDGE**