

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

Civil Revision Application No.133 of 2015
(Shri Jeevan s/o Dattatraya Punvantwar and others v. Smt. Usha wd/o Marotrao
Korke)

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

Court's or Judge's orders

Shri D.B. Walthare, Advocate for Applicants.

Coram : R.K. Deshpande, J.
Date : 17th February, 2016

The challenge in this civil revision application is to the order dated 28-9-2015 passed by the Trial Court below Exhibit 36 in Regular Civil Suit No.1497 of 2014 rejecting the application for rejection of plaint on the ground of under-valuation of the suit. The Trial Court has held that the suit is simpliciter for permanent injunction without claiming title over the suit property and hence it is not susceptible of monetary valuation. The Trial Court has further held that the suit is properly valued for the purposes of court fee and jurisdiction. The application is, therefore rejected.

The contention of the learned counsel appearing for the applicants is that it is necessary for the plaintiff to claim a relief of declaration that the sale-deed executed in favour of the defendants is null and void. He further submits that there is a serious dispute regarding title of the plaintiff over the suit property, which is raised by filing a written statement. According to him, the defendants are in possession of the suit property, whereas according to the plaintiff she

is in possession of the suit property. In such a situation, it is open for the Trial Court to decide the questions as to whether the suit simpliciter for permanent injunction without claiming a relief of declaration is maintainable, and whether the plaintiff is entitled to the relief asked for. The question of under-valuation of the suit does not at all arise.

In view of above, the civil revision application is dismissed.

Judge.

Lanjewar