

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

WRIT PETITION NO.6944 OF 2015

MEHBOOB SHAH IMAM SHAH
VS
RAUF SHAH KARIM SHAH & 16 OTHERS

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

Court's or Judge's orders

Shri A. K. Tripathi, Advocate for the petitioner.
Shri S. R. Deshpande, Advocate for the respondent Nos.1 to 15.

CORAM : A.S. CHANDURKAR, J.
DATED : JULY 11, 2016.

Heard

The petitioner is aggrieved by the order passed below Exhibit-244 by the trial Court in Regular Civil Suit No.09 of 2007 thereby directing the plaintiff in the counter claim to correct the valuation of the same and pay requisite court fees as per provisions of Section 6(4)(ja) of the Maharashtra Court Fees Act, 1959.

In the counter claim filed by the petitioner, a declaration has been sought that the sale deed dated 29-6-2012 was not binding on the plaintiff. In the counter claim, the valuation of the property as per said sale deed was mentioned as Rs.40,25,000/-. However, the counter claim was valued at Rs.1000/-. The defendants in the counter claim, therefore, moved an application praying that the counter claim may be properly valued. The trial Court by impugned order allowed the said application.

After hearing the respective Counsel for the

parties, I do not find that the trial Court committed any error in directing the plaintiff in the counter claim to correct the valuation and pay the requisite Court fees. Though it is submitted on behalf of the petitioner that the Court fees had been properly paid as per provisions of Section 6(4)(j) of the said Act, on perusal of the plaint and the reliefs sought therein, it is clear that the counter claim was required to be valued in accordance with the provisions of Section 6(4) (ja) of the said Act. The submission that an enquiry under Section 8 of the said Act was required to be made cannot be accepted in view of the clear averments made in the plaint with regard to the sale – deed being executed for consideration of Rs.40,25,000/-.

In view of aforesaid, there is no case made out to interfere in the writ jurisdiction. As the suit pertains to the year 2007, the proceedings therein are expedited and the trial Court shall decide the same expeditiously by the end of December, 2016. Order accordingly.

The writ petition is disposed of with no order as to costs.

JUDGE

/MULEY/