IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6027 OF 2014

RAMESH HIRAMAN GHUNGASHE AND OTHERS
VERSUS
PUNABAI MOHAN GHUNGASHE AND OTHERS

Advocate for Petitioner : Shri K.B. Jadhav
h/f Shri S.B. Bhapkar.
Advocate for Respondent Nos. 1 to 8 : Shri S.B. Choudhari.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 25th July, 2017

PER COURT :

1. The petitioner is aggrieved by the order dated 11/03/2014, by which, application Exhibit 14 filed by the defendant under Order VII Rule 11 of the Code of Civil Procedure has been allowed and the petitioners are directed to deposit the deficit Court fees, as per the market value of the suit land as is indicated by the valuation certificate dated 18/10/2013, issued by the Sub-Registrar, Class-I, Paithan.

2. By order dated 23/07/2014, this Court has stayed the suit at the request of the petitioners/plaintiffs.

3. I have heard the submissions of the learned advocates at length.

4. There is no dispute that the suit land was converted from agricultural land to non-agricultural in the year 2006. The R.C.S. No. 112/2013 was preferred on 24/04/2013. It, therefore, goes without saying that the suit was instituted for the land at issue which was already a non agricultural land and certain plots were demarcated in the said property. The defendants are paying taxes for the non agricultural land.

5. After the defendant filed application Exhibit 14, the Trial Court has considered the valuation certificate dated 18/10/2013, the tax receipt and the approved non-agricultural layout plan filed by the defendants. The land admeasuring 17,220 sq. meters in City Survey No. 2616 is in the Paithan town and is valued at the rate of Rs. 1750/- per sq. meter. The valuation certificate indicates the price of the land as being Rs. 3,01,35,000/-. The tax paid on 07/12/2006, is for an amount of Rs. 28,640/-. It is in the light of these aspects that the Trial

Court directed the petitioners to deposit the deficit Court fees.

6. Learned counsel for the petitioners strenuously submits that he has recently challenged the permission granting conversion of the agricultural land to non-agricultural land granted in the year 2006. He has every hope of success in the said proceedings and consequentially, the non agricultural permission could be set aside. Learned advocate for the respondent submits that this is a matter of speculation and no relief could be granted to the petitioner on the basis of assumptions

7. Since I do not find the impugned order could be termed as perverse or erroneous, ends of justice could be met by observing that in the event the petitioners succeed in getting the non agricultural permission set aside, they may move the Trial Court for refund of Court fees, if otherwise permissible in law.

8. Considering the above, this petition is disposed of. In the event, the petitioners succeed in their pending challenge to the

non-agricultural permission, they may seek refund of the Court fees, if otherwise permissible in law.

(RAVINDRA V. GHUGE, J.)

S.P.C.