

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7028 OF 2015

1. Sugriv s/o. Balaram Munde .. Petitioners
Age. 69 years, Occ. Agriculture,
 2. Jaydeep s/o. Balaram Munde
Age. 32 years, Occ. Agriculture,
- Both R/o. Village Lanji, Tq. Ahmedpur,
Dist. Latur.

Versus

1. Uttam s/o. Tukaram Gaikwad .. Respondents
Age. 46 years, Occ. Agri. & Service,
 2. Babu s/o. Sambhaji Gaikwad
Age. 63 years, Occ. Agriculture,
- Both R/o. Village Lanji, Tq. Ahmedpur,
Dist. Latur.

Mr. Anil H. Kasliwal, Advocate for the petitioners.
Mr. R.D. Biradar, Advocate for the respondents.

**CORAM : S.B. SHUKRE, J.
DATED : 08.03.2017**

ORAL JUDGMENT :-

1. Heard Mr. Kasliwal, learned Counsel for the petitioners and Mr. R.D. Biradar, learned Counsel for the respondents.

2. Rule. Rule made returnable forthwith and heard finally by consent.

3. The challenge in this petition is to the legality and correctness of order dated 07.04.2015, thereby deciding the application Exh.32 filed by the petitioners, by issuing direction that *ad valorem* valuation of the suit property, which is an agricultural land, be considered as Rs.1,15,000/- and accordingly Court fee under section 6(iv)(d) of the Maharashtra Court Fees Act be charged.

4. According to Mr. Kasliwal, learned Counsel for the petitioners while passing this order the learned Civil Judge has not considered the present market value, which is about Rs.33 lakhs and has also not considered the effect of proviso to section 6(iv)(d) of the Maharashtra Court Fees Act. The same is challenged by the learned Counsel for the petitioners.

5. The basis for contention of the petitioners is the document which is at Exh.28. Copy of Exh.28 is taken on record and marked as Exh."X" for identification. This document relates to open piece of land admeasuring 33 ft x 66 ft. Considering such nature of the open piece of

plot, it is obvious that the valuation shown in this certificate is apparently on the basis of a developed property. In the instant case it appears from the pleadings in the plaint that agricultural land falling within limits of Municipal Council has some potential. But in order to determine its present market value, some basis for ascertaining potentiality of the land will be required. However, no such basis till date has been furnished by the petitioners.

6. In the circumstances, the impugned order cannot be seen as patently illegal or perverse. In the result, the writ petition is dismissed. Rule is discharged. No costs.

7. Since the matter pertains to revenue accruing to the Government, liberty is granted to the petitioners to file fresh application, if occasion arises.

[S.B. SHUKRE, J.]