

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

BENCH AT AURANGABAD.

CIVIL REVISION APPLICATION NO.121 OF 2016

Wahab Shaikh Imam Bagwan
and others. ...Applicants.

Versus

Rajiyabi Hamja Khan Bagwan
and others. ...Respondents.

...
Mr.P.S.Shendurnikar, advocate for the Applicants.

...

CORAM : N.W.SAMBRE, J.

Date : 27.07.2017.

PER COURT :

1. Heard.

2. Perused the judgment in the case of
"Prism Reality, Pune Vs. Govind Yashwant Khalade
and others" reported in 2015 (2) Mh.L.J. 472.
The judgment of the Apex Court in the matter of
"Suhrid Singh @ Sardool Singh Vs. Randhir Singh
and others" reported in AIR 2010 Supreme Court

2807, is considered and distinguished in the judgment of Bombay High Court in the matter of **"Prism Reality, Pune Vs. Govind Yashwant Khalade and others"** referred to supra.

3. Having regard to the provisions of Bombay Court Fees Act, particularly, Section 6(iv)(ha), in my opinion the objection raised by the present applicants appears to be sustainable.

4. At this stage, the learned counsel for the original plaintiff submits that plaintiff being woman, is exempted from paying Court fees and would like to rely upon policy decision of the Government.

5. The said issue is to the surprise of the present applicants as it was not raised before the learned trial Court or even there is no supporting material viz; pleadings, the policy decision before this Court.

6. In the aforesaid backdrop, the order impugned dated 28.3.2016, passed by Civil Judge

(J.D.), Pachora, below Exh.1 and Exh.25 in RCS No.41 of 2015, is hereby quashed and set aside.

7. The said applications stood restored to the file of the learned court of Civil Judge (J.D.), Pachora, who shall decide the applications afresh having regard to the judgment of this Court in the matter of **"Prism Reality,Pune Vs.Govind Yashwant Khalade and others"** cited supra and shall also dwell upon the claim of the plaintiff, non-applicant before this Court as to whether the plaintiff is exempted from payment of Court fees provided such issue is raised and supported by cogent evidence.

8. With above observations, the Revision stands partly allowed.

(N.W.SAMBRE, J.)

