

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.9866/2014

Ravi Kailas Keswani & others.

...Petitioners..

Versus

Ramsing Munsising Chitodiya & others.

...Respondents...

.....

Shri Mukul S. Kulkarni, Advocate for petitioners.

Shri P.D. Dhorde, Advocate for respondent nos.1 & 2.

Respondent nos.3 & 4 served.

.....

CORAM: M.S. SANKLECHA, J.

DATE: 20.04.2017

ORDER :

1] This petition challenges the order dated 31.7.2014 passed by the learned Joint Civil Judge (S.D.), Jalgaon. By the impugned order, the petitioners' application that the issue of Court fees be tried as a preliminary issue was rejected.

2] The impugned order records the fact that the issues have been framed on 27.7.2012 and one of the issues was with regard to the Court fees payable. It was after the issues were framed that on 12.3.2013 the petitioners

- 2 -

filed an application stating that there is a short payment of Court fees and the plaintiffs – respondents herein be directed to pay the full Court fees on the plaint filed. Thereafter, on 22.11.2013 the petitioners filed another application seeking that the issue of appropriate payment of Court fees be tried as a preliminary issue.

3] So far as the first application made on 12.3.2013 seeking a direction that the respondents be directed to pay full Court fees was concerned, the same could not have been disposed of in favour of the petitioners as this very issue of appropriate payment of Court fees was one of the issues framed on 27.2.2012. This itself is an evidence of the fact that appropriate payment of Court fees was a disputable issue and for that reason, specific issue had been framed. So far as second application of treating the issue of Court fees as a preliminary issue is concerned, the impugned order in the facts of the case places reliance on Order XIV Rule 2 of the Code of Civil Procedure and holding that all the issues could be decided together.

4] The impugned order, in the facts, is reasonable

- 3 -

exercise of jurisdiction vested in Court and in terms of Order XIV Rule 2(1) of the Code of Civil Procedure. It does not call for interference by this Court, in the given facts, in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

5] Accordingly, the petition is dismissed. No order as to costs.

(M.S. SANKLECHA, J.)