

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12794 OF 2016
(Vimalbai Dattrao Kadam Vs.Manik Raosaheb Jogdand and another)

Mr.M.P.Kale, Advocate for the petitioner.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 04/01/2017

PER COURT :

1. The petitioner is aggrieved by the order dated 23/11/2016 passed by the learned Trial Court below Exh.1 in RCS No.27/2015 by which the petitioner / original plaintiff has been directed to properly value the suit as per Article 10 Schedule I of the Maharashtra Court Fees Act (earlier Bombay Court Fees Act, 1959).

2. Grievance of the petitioner is that the direction vide the impugned order is unsustainable because the petitioner is not seeking any probate. The petitioner is in possession and is merely claiming a declaration as regards his ownership, title and interest in the property.

3. Having considering the submissions of the petitioner, the grounds raised in the memo of the petition and the impugned order, it is apparent that the plaintiff has sought a declaration as regards his

ownership over an agricultural land admeasuring 1 hectre 27 R out of the total land admeasuring 3 hectares 79 R in land Survey No.9/3. Vide the prayers set out in the suit, injunction as well as declaration of the title to the suit property has been prayed for. There is no dispute that the source of the petitioner's claim is a Will-Deed dated 12/08/2014 said to have been executed by Raosaheb Jogdand. Raosaheb Jogdand has subsequently passed away and his son and daughter are original defendant Nos. 1 and 2.

4. It is in this backdrop that the Trial Court has directed the petitioner to calculate the valuation of the suit in terms of Article 10 under Schedule I of the Maharashtra Court Fees Act.

5. Considering the above, I do not find that the impugned order could be termed as being perverse or erroneous. This petition, being devoid of merit, is therefore dismissed.

(RAVINDRA V. GHUGE, J.)