**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**CIVIL REVISION APPLICATION NO.1004 OF 2014**

Sou. Radhabai Kamalakar Patil ..Applicant
alis Anusuya Nagu Madhavi

Vs

Shri Shreerang Pandurang .. Respondents
Madhavi and Ors.

Mr. Rohit Joshi, i/b Ms. Gauri Godse, Advocate for Applicant.

Mr. Amit Palkar, A.G.P. for Respondent No.11.

CORAM : R.G.KETKAR,J.
DATE : 07/02/2017

**PC**:

1. Heard Mr. Rohit Joshi, learned counsel for the applicant and Mr.Amit Palkar, learned A.G.P for respondent no.11 at length.

2. By this Application under Section 115 of the Code of Civil Procedure, 1908 (for short, 'C.P.C.'), the applicant has challenged order dated 22.11.2013 passed by Taxing Officer, Decree Department, High Court, (A.S), Bombay. By that order, Taxing Officer held that the applicant herein has claimed Rs.10,22,816/- for all purposes in Appeal including court fee. Thus, the applicant is required to pay court fee of Rs. 25,030/- as per Schedule -I of Maharashtra Court Fees Act.

3. In support of this Application, Mr. Joshi has invited my attention to the prayers made in the suit as also valuation made in the suit. He has also invited my attention to foot note no.2 of

Appeal Memo which is to the following effect:

> "2. The suit was valued in the trial Court for an amount of Rs.10,22,816/- (Rs. 10,896 + Rs. 8,51,920 + Rs.1,60,000/- as stated in paragraph no.10 of the plaint and decree). Hence, this First Appeal is valued for the purpose of jurisdiction and court fees as valued in the trial court and an amount of Rs.400/- is paid towards court fees as paid in the trial Court."

He submitted that the applicant has not prayed for cancellation of sale deed dated 15.10.2007 executed by defendant no.1 in favour of defendants no. 8 and 9 as also sale deed dated 1.9.2008 executed by defendants no. 3 and 4 in favour of defendant no.10.

4. Perusal of the order of Taxing Officer shows that the Taxing Officer observed that defendants no.1 and 9 have sold some properties and defendants no. 3,4 and 10 have also sold out some property during the pendency of the suit. As now the applicant has made clear that she has not prayed for cancellation of the sale deeds, it is, therefore, necessary to direct Scrutiny Officer as also Taxing Officer to reconsider this aspect. Hence the following order.

5. Order dated 22.11.2013 is set aside. Scrutiny Officer will now proceed on the footing that the applicant has not prayed for cancellation of the sale deed dated 15.10.2007 executed by defendant no.1 in favour of defendants no 8 and 9 as also sale deed dated 1.9.2008 executed by defendants no. 3 and 4 in favour of defendant no.10 and thereafter submit report to the

Taxing Officer who will, in turn, pass appropriate orders. Let that exercise be done expeditiously. Civil Revision Application stands disposed of accordingly.

(R.G.KETKAR, J.)