

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

CIVIL REVISION APPLICATION NO.162 OF 2016

M/s.Vishrut Infotech Pvt. Ltd.

... Applicant

Vs.

Smt.Anjali Dinesh Patil & Ors.

... Respondents

Mr.Atul Rajadhyaksha, Sr.Adv. With Nishant Tripathi and Vaibhav Bandgar i/b M.Tripathi & Co. for the Applicant

Mr.Mahesh Vishwakarma with Wasim Dhurupatel i/b Vishwakarma & Asso. for Respondent No.1

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: APRIL 24, 2017**

P.C. :

1. This Civil Revision Application challenges the order dated 27.1.2016 passed by the learned III Joint Civil Judge Senior Division, Panvel. This Court by order dated 22.3.2016 has mentioned that the application under Order 7 Rule 11 of Civil Procedure Code was made on three grounds i.e., cause of action, limitation and under valuation of the suit. The Civil Judge Junior Division, did not upheld on the limitation and the cause of action, however, it allowed the application under Order 7 Rule 11 on the ground that the suit is undervalued. Thereafter, the plaintiffs have revised the valuation of the suit and paid the additional court fees

ad-valorem and now, the suit is transferred from the Court of Civil Judge Junior Division to the Court of Civil Judge Senior Division, Panvel.

2. The learned Senior Counsel appearing for the applicant submits that thus the objections on the ground of limitation and non-disclosure of cause of action are to be reheard by the learned Civil Judge Senior Division as he has rejected the two grounds though he was not having a proper pecuniary jurisdiction.

3. The learned Counsel for the respondents / original plaintiffs submits that in fact, the suit was properly valued as it was a partition of leasehold rights in the suit property and, therefore, it was rightly paid earlier as per the premium or as per the 1/6th share of the plaintiffs. However, he submits that he has not challenged the said order / finding of the learned trial Judge and he has submitted to the finding in respect of the valuation and the learned Counsel further submits that he is prosecuting the suit before the learned Civil Judge Senior Division, Panvel.

4. In view of the submissions of the learned Counsel and also the order passed by this Court dated 22.3.2016, this petition can

be disposed of with the following directions:

i) The application under Order 7 Rule 11 of the Civil Procedure Code on the ground of limitation and non-disclosure of cause of action shall be reheard afresh by the learned Civil Judge Senior Division, Panvel.

ii) At the end of the trial, if it is found that the valuation of the suit is not correct and it is over valued, then the plaintiffs will be entitled to refund of Court fees subsequently.

5. Writ Petition is accordingly disposed of.

(MRIDULA BHATKAR, J.)