

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6591 OF 2017***

Jotiram Mahadev Mane & Ors. Petitioners
Versus
Shivaji Ramhari Mane & Ors. ...Respondents

Mr. Dilip Bodake, for the Petitioners.
Mr. Vishwanath S. Talkute, for the Respondents

***CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 16th November, 2017.***

P.C. :

1. Heard. Rule. Rule made returnable forthwith with consent of the parties.
2. The petitioners herein happen to be the defendants in R.C.S. No.93 of 2001 pending before the Joint Civil judge, Junior Division, Vaduj. According to the petitioners/defendants, the suit was not properly valued and, therefore, a request was made to frame a preliminary issue in respect of the valuation of the suit property as it would go to the root of the matter to determine the jurisdiction of the Court. The said preliminary issue was framed. The learned Civil Judge, J.D., Vaduj answered the issue in the

affirmative by an order dated 1.4.2017. The Court had also appointed a valuer to make an assessment of the valuation of the suit property and has recorded the findings by giving a reasoned order. The findings recorded by the Court and the reasons assigned for rejecting the application cannot be interfered with, more so because the suit is of the year 2001 and it is still pending at the stage of framing of issue. However, the defendants cannot be denied the right to adduce evidence to show that the suit property is not properly valued by reserving the right of the original defendants i.e. the petitioners.

3. The order dated 1.4.2017 passed by the Joint Civil Judge, Junior Division, Vaduj, is confirmed. Rule is discharged. Petition stands disposed of.

4. It is made clear that this Court has only confirmed the order dated 1.4.2017. The learned Judge while concluding the suit shall give the findings on the basis of the evidence adduced.

(SMT. SADHANA S.JADHAV,J.)