

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 340 OF 2015
WITH
NOTICE OF MOTION NO. 1035 OF 2015
IN
SUIT NO. 197 OF 2015**

Dhairyashil Yashwant Suryavanshi .. Applicant

In the matter between :

Nutan V. Patil .. Plaintiff

Vs.

Dhairyashil Yashwant Suryavanshi &
Yashwant Suryavanshi .. Defendants

Mr.Suneet Mohoklkar for plaintiff.

Mr.Gandhar Raikar i/b Madhukar P. Dalvi for defendants.

CORAM : K.R.SHRIRAM, J.

DATE : 27TH APRIL, 2017

P.C.

NOTICE OF MOTION NO. 1035 OF 2015

1 This notice of motion is taken out to frame the preliminary issue of jurisdiction under Section 9A of the Code of Civil Procedure, 1908, as according to the applicant, the Court does not have jurisdiction to try and adjudicate the present dispute. It is the applicant's case that the value of 1/3rd share claimed by the plaintiff was less than Rs.1 crore and hence this Court also does not pecuniary jurisdiction and the plaint should be returned to the plaintiff for presentation to the appropriate Court.

2 The basis of the applicant's motion is that the plaintiff has incorrectly valued her 1/3rd share at Rs.1,08,00,000/- whereas as per the rate given in the Ready Reckoner issued by the Maharashtra State Government for the year 2015, the year the suit was filed, was only Rs.85,00,000/-.

3 Mr.Mohoklkar for the plaintiff submits that the purpose of providing a Ready Reckoner rate is entirely different and by reference to the same, possibly some minimum price may be determined for fiscal purposes and that cannot come in the way of the parties either selling or valuing their property at rates higher than those set out in the Ready Reckoner. To buttress his submission, Mr.Mohoklkar relied upon a judgment of a Division Bench of this Court in **Deepak Natwarlal Parekh Vs. Tejas Natwarlal Parekh**¹. It will be useful to reproduce paragraph 10 of the said judgment which reads as under :

“10 In our judgment, the defendant's aforesaid contention is clearly misconceived. In the first place, the purpose of providing a Ready Reckoner is entirely different and by reference to the same, possibly some minimum price may be determined for fiscal purposes. However, there can be no bar to parties either selling or valuing their property at rates higher than those set out in the Ready Reckoner. Secondly, the suit premises include not merely the built up area of 650 sq. ft. but also the common garden. The calculations suggested by the defendant, completely overlook this aspect. Thirdly, even if we are to proceed on the basis of the rates suggested in the Ready Reckoner, the valuation, upon inclusion of the common garden, would certainly exceed the pecuniary limits of jurisdiction of this Court which is above Rs.1,00,00,000/-. This is certainly not a case where the valuation is arbitrary or

1 2015 (I) All M.R. 790

unreasonable. In such circumstances, there is no reason to deviate from the normal rule that the plaintiff is free to make his own estimation of the relief sought in the plaint and such valuation, both for purposes of court fee and jurisdiction, which has to be ordinarily accepted.”

4 The facts and circumstances of this case is similar to the facts and circumstances in *Deepak Natwarlal Parekh* (supra). It is quite clear that the Ready Reckoner rate is possibly some minimum price determined for fiscal purposes and that cannot come in the way of any party valuing their share in property at rates higher than those set out in the Ready Reckoner. The plaintiff has valued her share in the property as Rs.1,08,00,000/-. The only basis for the defendants to say it is Rs.85,00,000/- is the ready reckoner rate, which the Division Bench has disapproved.

5 Also, I do not find any reason to deviate from the normal rule that the plaintiff is free to make his own estimation of the relief sought in the plaint and such valuation, both for purposes of court fee and jurisdiction has to be ordinarily accepted.

6 In the circumstances, the notice of motion is dismissed with costs in the sum of Rs.5,000/- to be paid by the defendants to the plaintiff. This amount to be paid within two weeks by way of cheque drawn in favour of

the advocate on record for the plaintiff.

NOTICE OF MOTION NO. 340 OF 2015

7 The counsels state that the order passed on 13th February 2015 be confirmed as order in the notice of motion. Mr.Raikar for defendants agrees that the said order will be binding upon both the defendants even though only defendant no.1 is mentioned in paragraph 4. It is clarified that order will be binding upon defendant no.2 as well. The notice of motion accordingly disposed.

8 The suit be listed for issues on 13th June 2017. In the meanwhile, parties to file their respective affidavits of documents, complete discovery and inspection and also exchange statements of admission and denial with reasons for denial.

(K.R. SHRIRAM, J.)