

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

WRIT PETITION NO.5104 OF 2018

Shankar Balisha Kamble
since deceased, through :
Tanubai Shankar Kamble & Ors. ... Petitioners

Vs.

Smt.Kamal Hindurao Kamble & Ors. ... Respondents

Mr.N.J. Patil for the Petitioners

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JUNE 5, 2018**

P.C. :

1. This Writ Petition is filed under Article 227 of the Constitution of India against the order dated 10.1.2018 passed by the learned 7th Joint Civil Judge Senior Division, Ichalkaranji, below exhibit 98 in Regular Civil Suit No.218 of 2013. The present petitioners are the defendants, who moved an application under Order 7 Rule 11(b) and 11(c) of the Civil Procedure Code, for rejection of plaint on the ground that the suit is under valued.

2. The learned Counsel for the petitioners has submitted that the suit is valued as an agricultural land and accordingly, court fees is paid under section 6(v) of the Court Fees Act. The learned

Counsel submits that the power of attorney holder of the plaintiff has produced the N.A. order of the suit land and as the land is not an agricultural land, the Court fees is to be paid as per market value of the said land and, therefore, the impugned order passed by the trial Judge is to be set aside.

3. Perused the plaint and the impugned order. The trial Judge has considered the aspect of payment of court fees by referring to the relevant provisions i.e., section 6(v) and 6(vii) of the Maharashtra Court Fees Act, which pertain to the agricultural lands. If the N.A. order is produced and proved in the course of evidence by the defendants, then, that it is pertaining to the suit land, then, at the end of the final order, the Court may order the plaintiff to pay necessary and adequate court fees. However, at this stage, no interference is required. Writ Petition is accordingly dismissed.

(MRIDULA BHATKAR, J.)