

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

WRIT PETITION NO. 8122 OF 2018

Ramesh Mohanlal Khanija

...Petitioner

Versus

Sadashiv Bhaskar Patil & Anr.

...Respondents

.....

Mr.Rushikesh C. Barge for the Petitioner.

.....

**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: JULY 27, 2018**

P.C. :

1. Upon urgent mentioning, taken on Production Board.
2. In this Petition, the learned Counsel for petitioner prays that the order dated 21st July, 2018 passed by the learned Civil Judge, Junior Division & J.M.F.C., Mahabaleshwar be set aside.
3. The petitioner, who is the original plaintiff, has filed a Regular Civil Suit No. 96 of 2018 for declaration and injunction wherein he has prayed that the registered Sale Deed dated 4th February, 2017 which was executed between him and the defendants i.e., respondent, is not binding on him. The plaintiff has valued the suit as per Section 6 (iv) (j) of the Maharashtra Court Fees Act. However, the learned Judge of the trial Court has held as under:

"1] The plaintiff is directed to correct the valuation of the subject matter of present suit as per provision of section 6 (iv) (ha) of the Maharashtra Court Fees Act on the basis of relevant amount of consideration passed in execution of the sale-deed in question within the period of 10 days from the date of this order. Failing which the plaint will be rejected vide O. 7 Rule 11 of Code of Civil Procedure".

4. Perused plaint and the prayers made therein. The suit is for declaration that the Sale Deed executed between the plaintiff and the defendants is not binding on the plaintiff. However, the plaintiff has cleverly drafted prayer clause (A) and it presupposes that the said Sale Deed is illegal and void and, therefore, it is not binding on him unless the Court declares that the said Sale Deed is void and illegal and it cannot give any declaration that it is not binding on him. The learned Judge of the trial Court has passed reasoned order. Hence, the order dated 21st July, 2018 passed by the learned Civil Judge, Junior Division & J.M.F.C., Mahabaleshwar does not warrant any interference. Writ Petition is dismissed.

5. The learned Counsel for the petitioner/ plaintiff to deposit court fees in the trial Court within a period of four weeks from today.

(MRIDULA BHATKAR, J.)