

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL REVISION APPLICATION NO.86 of 2018

Sadhna wd/o Arun Divay
And ors.

... Applicants

-vs-

Ameeta Divay
And ors.

... Non-applicants.

Shri H. I. Kothari, Advocate for applicants.
Shri S. P. Watkar, Advocate for non-applicant Nos.1 to 3.
Shri B. P. Kumbalwar, Advocate for non-applicant Nos.4 to 8.

CORAM : A.S.CHANDURKAR, J.
DATE : October 16, 2018

P.C.

In view of notice for final disposal issued earlier, the learned counsel for the parties have been heard at length.

The applicants are the defendant Nos.1 to 3 who are aggrieved by the order passed by the trial Court below Exhibit-19 thereby rejecting the application that was filed by said defendants for rejection of the plaint on the ground that the same was not properly valued.

2. The non-applicant Nos.1 to 3 are the original plaintiffs who have filed suit for partition and separate possession. The suit property is a residential

house standing on plot admeasuring 3283 sq. ft. In the plaint the suit has been valued at Rs.15,00,000/- for the 1/4th share which is being claimed by the plaintiffs and Court fees of Rs.31250/- have been paid.

3. In the application filed by defendant Nos.1 to 3 it has been stated that the suit is not valued as per the Ready Reckoner and it is the case of the said defendants that the valuation of the construction ought to be taken at Rs.24,000/- per sq. meter. On the other hand according to the plaintiffs the value of the construction has to be taken at Rs. 10,000/- per sq. meter.

4. Heard the learned counsel for the parties who argued as per their contentions made in the application below Exhibit-19 and reply thereto. The parties seek to rely upon the Ready Reckoner in which the valuation of open land is shown at Rs.14,500/- per sq. meter and Rs.24,500/- per sq. meter for residential buildings. While according to the plaintiffs they are entitled to seek depreciation in respect of the constructed portion by relying upon Clause-6 of the said Ready Reckoner for the year 2012, according to defendants, such depreciation is not permissible.

5. It is found that the suit has been filed in the Court of Civil Judge, Senior Division. Even if the contentions of defendant Nos.1 to 3 as regards valuation of the claim are accepted, the Court of Civil Judge, Senior Division

would continue to have pecuniary jurisdiction. In this backdrop, it is found that the interests of justice would be served if the trial Court is directed to frame an issue with regard to appropriate valuation of the plaint along with other issues that would arise in the suit.

6. Hence by keeping the respective contentions of the parties open and by clarifying that the observations made in the order dated 27/11/2017 passed below Exhibit-19 would not preclude the Court from deciding the said issue afresh, the Civil Revision Application is disposed of. The points raised are kept open for being urged before the trial Court.

JUDGE