

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.**

911. WRIT PETITION NO. 5968 OF 2019

Kiranshankar Janardan Kahalekar & Anr. ...Petitioners

VERSUS

Ishwarayya Guru Karbassyya and others ...Respondents

Mr. S.S. Bora, Advocate for petitioners

CORAM : RAVINDRA V. GHUGE, J.

DATE : 19th June, 2019

PER COURT:

1. The learned Advocate for the petitioners submits that the respondents have been served through Advocate's notice as per the direction of this Court while granting circulation. An original receipt of speed post alongwith a copy of the letter, is placed on record, which is loosely tagged with the petition.

2. The petitioners are defendants No. 54 and 55, who have been arrayed as such in Reg. civil suit No. 84 of 2001. After they were added, an application Exh. 398 was filed requesting the Court that the plaint be returned under Order 7 Rule 10 of the Code of Civil Procedure on the ground that the Court does not

have the pecuniary jurisdiction in view of the valuation of the suit property.

3. I have considered the strenuous submissions of the learned Advocate for the petitioners and have gone through the petition paper book with his assistance.

4. It cannot be ignored that the suit was lodged in 2001 and the cause of action relates back to the issues as on date of the filing of the suit. Though the petitioners/defendants have been arrayed in 2018, it would be a matter to be adjudicated upon as to whether the market value of the suit property can be assessed as in 2018. In my view, it would be an endless exercise to revise the valuation of the suit property with every passing calender year.

5. The learned Advocate for the petitioners, however, points out Section 8 of the Maharashtra Court Fees Act, which enables the Court to cause an inquiry to assess as to whether the subject matter of any suit is wrongly valued or not. This would be related to the pecuniary jurisdiction of the Court.

6. The learned Counsel for the petitioners, therefore, submits that the petitioners may be permitted to withdraw this petition so as to make an appropriate application under Section 8

of the Maharashtra Court Fees Act. He justifies this request by stating that it would be a futile exercise by the Trial Court to complete the recording of oral evidence and conclude while delivering the judgment that it has no jurisdiction.

7. In view of the above, this petition is disposed off as withdrawn. In the event, the petitioners prefer an application U/S. 8 of the Maharashtra Court Fees Act, the Trial Court would consider the said application on its merits and after allowing the litigating sides to submit their responses, as expeditiously as possible and preferably, within a period of four weeks.

(RAVINDRA V. GHUGE)
JUDGE

Madkar