

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

977 CRA NO.34 OF 2019

SANJAY BHAULAL GUSINGE AND ANOTHER
VERSUS
NANDABAI BHALCHANDRA DHOLE AND ANOTHER

...

Advocate for Petitioners : Mr.Kulkarni Vaibhav B.
Advocate for Respondent No. 1: Mr. C.R. Deshpande
Advocate for Respdt. No. 2 : Mr. P.B. Salunke h/f
Mr.Kakade Sunil B.

...

CORAM : M.S.KARNIK, J.

Dated: August 16, 2019

PER COURT :-

Heard the learned counsel for the applicants. The applicants, by this application challenge the order, passed below Exh. 27 and Exh. 36, in RCS No. 13 of 2017. The applicants who are original defendant Nos. 2 and 3 filed an application for rejection of plaint under Section VII Rule 11 of the Code of Civil Procedure, 1908, (hereinafter referred to as the "CPC" for short).

2. The principal contention of defendant Nos. 2 and 3 was that the plaintiffs have failed to value the suit property correctly and to pay ad valorem Court fees appropriately. The Trial Court by the impugned order dated 27.4.2018, directed the

plaintiffs to correct the valuation within one months time, and pay the ad-valorem Court fees within one months time, failing which application was to be rejected.

3. By the order below Exh. 36, the Trial Court accepted the reasons given by the plaintiffs for not correcting the valuation within time and to pay Court fees and thereby granted further time.

4. The application was filed by defendant Nos. 2 and 3 for dismissing the suit for the above reason.

5. From the record it appears that, appropriate Court fees now has been paid and even the valuation has been corrected. If the Court has granted further time to correct the valuation and to pay the Court fees, I do not find any reason to interfere with the view taken.

6. It is the contention of the petitioner that

haing failed to correct the valuation and pay Court fees within the time granted, the Trial Court was not justified in extending the time and should have dismissed the suit.

7. Learned counsel for the applicants pointed out that the applicants have filed objection under Section 3-H (4) of the National Highways Act for the apportionment of the payment of compensation as the land is acquired for National High Way. The Division Bench of this Court by order dated 10.4.2019, already has directed that RCS No. 13 of 2017 be decided along with reference that would be referred by the Competent Authority to the Principal Court of Original Civil Jurisdiction. The suit would obviously be dealt with in terms of the order dated 10.4.2019 passed by the Division Bench.

8. With these observations, the Revision Application is dismissed. No order as to costs.

9. The issue of Limitation and other contentions are kept open to be decided on its own merits and in accordance with law.

(**M.S.KARNIK**)
JUDGE

mahajansb/